

**Annual Recertification Submission Checklist**

Company Name		Date
Broker Contact	Account Executive:	

***Required Fqewo gpw***

- Mortgage Broker Annual Recertification Checklist
- Mortgage Broker Annual Recertification Form
- Updated License Information
- Signed and Dated Most recent P & L Statement and Balance Sheet
- 3 or more References from Wholesale Lenders with Whom You Are Approved



**MORTGAGE BROKER ANNUAL RECERTIFICATION**

<b>Company Information</b>			
Legal Name of Entity :			
Doing Business As :			
Street Address (No P.O. Box) :			
City:		State:	ZIP Code:
Phone:	Fax:	Company E-mail:	
Contact Person:		Contact E-mail:	
Type of Business: <input type="checkbox"/> Sole Proprietor <input type="checkbox"/> Corp. <input type="checkbox"/> Partnership <input type="checkbox"/> LLC <input type="checkbox"/> LP			
Date Incorporated:		County:	State:
Federal ID No:		If no Federal ID #., Broker SSN:	
<b>License/Approval</b>			
Broker of Record :		License # :	
Broker NMLS #:		Date Issued:	
Company NMLS #:		Expiration Date:	
<i>If licensed approved by any of the following entities, the following information is required.</i>			
FHA/HUD No.:		Date Approved:	
Veterans Affairs No:		Date Approved:	
Fannie Mae No:		Date Approved:	
Freddie Mac No:		Date Approved:	
<b>Principal(s) / Senior Officer(s) / Manager(s)</b>			
Name		Title	SSN #
			Percent Owned
			%
			%
			%
			%
<b>References: (List All FNMA/FHLMC Wholesale Lenders with Whom You Are Approved)</b>			
Company		Contact Person	Email address
<b>Disciplinary Actions</b>			
Does your company have an internal audit procedure to verify authenticity of the information contained in your loan? If yes, please attach documentation.			<input type="checkbox"/> Yes <input type="checkbox"/> No
Have your company ever been suspended from brokering loans to lender? If yes, please attach a complete explanation.			<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you ever been removed from a Lender's / Investor's Approved Mortgage Brokerage list? If yes, please attach a complete explanation and supporting documentation, if applicable.			<input type="checkbox"/> Yes <input type="checkbox"/> No



THIS MORTGAGE BROKER AGREEMENT ("Agreement") is entered into on this date of \_\_\_\_\_, 20\_\_\_\_ ("Effective Date") by and between First Standard Financial Corp (dba In Motion Mortgage, and NexCap Home Loans, the "Lender"), and the following mortgage broker:

_____	} (collectively "Broker")
Broker Company Name	
_____	
Principal Owner's Name	
_____	
Broker of Record, Individual Licensee's Name	

For purposes of this Agreement, the term "Broker" shall mean and include the broker company, its fictitious business names and aliases, its principal signatory to this Agreement, and individual broker licensee signatory to this Agreement. Lender and Broker are also referred to individually as a "party" and collectively as the "parties" to this Agreement.

1. General Duties, Conditions, and Broker Compensation.

1.1 Lender's General Duties. Lender shall provide funding for loan requests submitted by Broker that conform with Lender's lending criteria, policies, and guidelines then in effect. Lender will make available or provide to Broker the descriptions of Lender's wholesale lending programs from time to time, and Lender shall be responsible to perform other common tasks reasonably required for Lender to successfully perform under this Agreement. Lender shall not represent, promise, or guarantee to the Broker, Borrower, or any third party that any loan submitted to Lender is or will be approved, unless and until Lender has actually communicated such approval in writing. All loan packages and documentation are subject to Lender's independent review and verification and shall become the property of Lender upon loan closing.

1.2 Broker's General Duties. Broker shall perform those services described in the **General List of Broker Services** attached hereto as **Exhibit "A"** and incorporated herein as a part of this Agreement, and other tasks customarily required of mortgage brokers. Broker shall not represent, promise, or guarantee to the Borrower or any third party that any loan submitted to Lender is or will be approved, unless and until Lender has actually communicated such approval to Broker in writing. In performing its services, Broker shall always exercise reasonable due care and provide the Borrower with all disclosures pursuant to state and federal laws governing the application, submission, and issuance of real estate loans. All loan requests, inquiries, submissions, and transactions shall be in Broker's official company name.

(a) Timeliness of Providing Documentation: Broker shall deliver to Lender, by bonded overnight courier service, all loan documentation, supporting information and materials, correspondence, notices, communications, and other materials that are relevant to the underlying loan application (collectively "documentation"), which Broker received from Borrower and any third parties, within one day or 24 hours of Broker's receipt of such documentation. Lender shall not be liable for Broker's failure to provide required documentation in a timely manner.

(b) Upon Borrower's Exercise of Rescission: In the event that a Borrower exercises his or her right of rescission, Broker shall promptly pay to Lender all amounts collected by Broker from Borrower in connection with the loan, except for any amounts that Broker disbursed to third party service providers.

(c) Upon Borrower's Early Payoff of Loan: Applicable to all loan programs, in the event that any loan is prepaid in an amount equal or greater than 10% of the amount due and owing under the related note within 210 days of the loan's funding date or closing date, whichever is later, Broker shall promptly refund and reimburse Lender: (a) any related premium above par and/or any other pricing enhancements paid by Lender or credited to the Borrower's closing costs; or (b) the service release price ("SRP") of no less than 1.750% of the loan amount that was included in the final pricing of the loan, whichever is greater. Broker acknowledges that this early payoff reimbursement provision is a material inducement for Lender to enter into this Agreement, Lender would not have entered this Agreement without Broker's agreement to this provision, and Lender has relied upon Broker's promise to reimburse Lender to enter into this Agreement.

1.3 Program Descriptions are Non-Binding Until Loan Approval. Due to daily and periodic fluctuations and changes to interest rates, program incentives, market conditions, and applicable regulations, Lender's descriptions of wholesale lending programs are subject to change or adjustment any time prior to Lender locking or confirming any rate, term, or condition expressed in any description of a lending program, and as a result, Lender's description of any lending program shall not be binding unless and until Lender has approved said loan for funding and communicated the approval to Broker in writing. Lender

shall review Broker's loan requests, inquiries, and submissions (collectively "Loan Submission") pursuant to Lender's then current lending criteria. In all cases, no Loan Submission shall be deemed approved without Lender's written approval transmitted to Broker.

1.4 Appraisals Subject to Lender's Independent Review. Lender reserves the right to independently review and assess the qualifications, accuracy, and reliability of any real property appraiser, real property appraisal, or real property valuation submitted by Broker to Lender. Lender may in its sole and independent discretion evaluate, reject, accept, and/or request additional information regarding any appraiser, appraisal, or valuation at any time prior to closing the loan. Notwithstanding Lender's acceptance of any appraisal or valuation, such acceptance shall not mean or imply Lender's approval of a loan or loan amount.

1.5 Broker's Compensation. Broker shall be compensated only upon the successful closing of a loan that is originated by Broker and approved for funding by Lender. Broker shall be paid at the fee rate selected in the **Lender-Paid Broker Compensation Election Agreement** attached hereto and made a part of this Agreement. While such fees may be paid in whole or in part by the Borrower, Lender, or by both Borrower and Lender, no fees shall be paid to Broker which have not been fully disclosed to and approved by both Lender and Borrower. No fees shall be paid to Broker for any loan that fails to fund or fails to close for whatever reason. In all cases, Broker's fees are not earned until the loan transaction has successfully closed, except for any premium or price enhancement which remain unearned and are reimbursable to Lender for 210 days after the loan closing. Broker compensation will be paid to Broker's official company name and corresponding IRS tax identification or EIN on file.

2. Relationship of the Parties. This Agreement does not create a partnership, joint venture, employment relationship, representative relationship, or agency relationship between Lender and Borrower; all dealings between Lender and Broker are at arms-length and initiated by Broker after consultation with the Borrower. Broker shall not represent to anyone that Broker is an agent of Lender, and Broker shall not use or apply Lender's name in any advertising without Lender's prior written consent.

3. Broker's Representations, Warranties, and Covenants. Broker represents, warrants, and covenants from the Effective Date through the life of any loan originated by Broker and approved by Lender, that:

3.1 Authority and Capacity to Enter Into this Agreement: Broker is authorized and has the legal capacity to enter into this Agreement; Broker is duly licensed and in good standing with the department of real estate, state real estate licensing board, or other appropriate regulatory body having jurisdiction over Broker's mortgage broker license in all states where Broker will perform services under this Agreement; that Broker is approved by or registered with the U.S. Department of Housing and Urban Development ("HUD") for purposes of FHA loan submissions; and Broker's performance under this Agreement does not violate any provision of Broker's charter, bylaws, or any laws or regulations applicable to Broker's business activities.

3.2 Truthfulness of Information Provided: Broker has provided no false, deceptive, or misleading statements or information in its broker application and supporting documentation to Lender; Broker will provide no false, deceptive, or misleading information to Lender in connection with any Loan Submission or request for Lender's underwriting decision; Broker will not intentionally omit or conceal any facts that are material or necessary for Lender to fairly assess, review, and make informed funding decisions in connection with any Loan Submission from Broker. Broker shall, upon request from Lender, supply proof satisfactory to Lender of Broker's compliance with (i) all representations and warranties contained in this Agreement, and (ii) all local, state and federal laws, rules and regulations.

3.3 Absence of Claims: There are no pending or threatened criminal or civil lawsuits, arbitrations, administrative actions, investigations, disciplinary actions of any licensing bodies; and neither Broker nor its principals, owners, directors, officers, employees, and/or agents have been involved in any criminal or civil litigation within the past five (5) years involving allegations of deceitful practices, fraud, theft, embezzlement, unfair business practices, or any act of moral turpitude.

There is no action, proceeding or investigation pending with respect to which Broker or any guarantor has received service of process or, threatened against it before any court, administrative agency or other tribunal (A) asserting the invalidity of this Agreement, the guaranty or any other agreement among the parties, (B) seeking to prevent the consummation of any of the transactions contemplated by this Agreement, the guaranty or any other agreement among the parties, (C) making a claim individually in an amount greater than \$5,000 against Broker or any of its officers, shareholders, owners, or affiliates, (D) making a claim for an unspecified amount of damages, or (E) which could adversely affect the validity of the loans or the performance by it of its obligations under, or the validity or enforceability of this Agreement, the guaranty or any other agreement among the parties.

Broker, as of the date of this Agreement and any Loan Submission, (A) does not have any unsatisfied obligations to reimburse any other mortgage company or any other person or entity in connection with any demand for any (i) early payment defaults, (ii) early payoff premiums, (iii) repurchase demands or (iv) indemnification obligations with respect to any of the foregoing, and (B) has not been notified by any mortgage company, any other person or entity, or have reason to suspect that a demand is forthcoming, with respect for any (i) early payment defaults, (ii) early payoff premiums, (iii) repurchase demands or (iv) indemnification obligations with respect to any of the foregoing, and (C) is not entering into this Agreement or any Loan Submission due to any other mortgage company or any other person or entity, having terminated Broker from any similar type of broker or correspondent agreement based on Broker's failure to timely and promptly pay any (i) early payment defaults, (ii) early payoff premiums, (iii) repurchase demands or (iv) indemnification obligations with respect to any of the foregoing.

Broker has no outstanding judgments, and Broker has no judgment, court order, claim, counterclaim, defense, right of set-off or similar right against Lender or any of its affiliates.

3.4 Broker's Control of Documents: Broker has provided no Borrower client with possession or access to any credit verification document, income verification document, or bank deposit verification document which Broker has or will submit to Lender with respect to any Loan Submission.

3.5 No Ownership of Real Property Serving as Security: Broker has no direct or indirect ownership interest in any real property serving as security for any loan which Broker originated, and Broker will have no direct or indirect ownership interest in any real property that will serve as security for any loan which Broker originates.

3.6 Licenses in Good Standing: Broker, and all persons employed by Broker who are directly involved in originating, transacting, or processing loans, have complied with all applicable state and federal laws and regulations, including but not limited to compliance with the National Housing Act and its implementing regulations for purposes of FHA loan submissions, as amended; Broker and all individual licensees employed by Broker are duly licensed and in good standing with the department of real estate or other real estate licensing body having jurisdiction over Broker's activities in each state where Broker transacts business; Broker will maintain and keep current its broker licenses in good standing. Broker shall immediately notify Lender in writing of the threat, initiation, pendency, or resolution of any disciplinary, enforcement, or criminal action, lawsuit, administrative proceeding, or similar action, proceeding, or investigation by FHA, VA, Freddie Mac, Fannie Mae, HUD, Ginnie Mae, or any state or federal agency having jurisdiction over real estate, housing, banking, or financial institutions against Broker or any of Broker's affiliated companies, or against any of the directors, officers, employees, or agents of either Broker or any of Broker's affiliated companies.

Broker shall immediately notify Lender in the event that any director, officer, or loan officer of either Broker or any of Broker's affiliated companies is charged with or convicted of (i) any crime involving dishonesty or fraud; or (ii) of any felony, irrespective of the nature of the crime.

Broker shall immediately notify Lender in writing of (i) the occurrence of any breach of a representation or warranty or Event of Default as set forth in this Agreement; (ii) any litigation or proceeding affecting Broker, any guarantor or any affiliated person or entity, if adversely determined, could have a material adverse effect on the business, operations, property or financial or other condition of Broker or the ability of Broker to perform its obligations hereunder; (iii) receipt by Broker of notice from any agency concerning revocation, suspension or any other adverse action or potential action relating to any of Broker's licenses to conduct its business; or (iv) any material adverse change in the business, operations, property or financial or other condition of Broker.

3.7 Broker Compensation: All of Broker's fees including the method of computation, fee rates, and amounts have been and will be fully negotiated by and between Broker and its Borrower clients at arms-length, and Broker's total fees and compensation have been and will be separately itemized and fully disclosed by Broker to each Borrower and to Lender.

3.8 Broker's Services to Borrower: Broker shall observe all ethical and legal requirements and perform all duties required of it as a mortgage broker with respect to its clients; Broker will assist its clients in the completion of the loan application, and Broker will satisfactorily perform at least five (5) of the services listed in the **General List of Broker Services** attached as **Exhibit "A"**. Broker warrants that all services will be performed in accordance with customary standards in the mortgage lending industry, and Broker has received no complaints from any Borrower that any such services were not satisfactorily performed. Broker makes credit accessible to all qualified applicants in accordance with applicable law. Broker has not discriminated, and will not discriminate, against credit applicants on the basis of any prohibited characteristic, including race, color, religion, national origin, sex, marital or familial status, age (provided that the applicant has the ability to enter into a binding



contract), handicap, sexual orientation or because all or part of the applicant's income is derived from a public assistance program or because of the applicant's good faith exercise of rights under the Federal Consumer Protection Act. Furthermore, Broker has not discouraged, and will not discourage, the completion of any credit application based on any of the foregoing prohibited bases. In addition, Broker has complied with all anti-redlining provisions and equal credit opportunity laws, rules and regulations under applicable law.

3.9 High Cost Mortgages: With respect to any loan that is subject to the provisions of Section 226.31 and Section 226.32 of Regulation Z (Truth in Lending Act), prior to the date of Broker's submission of a Borrower's completed loan application package to Lender, Broker warrants that it has delivered a complete and accurate notice which satisfies all requirements of Sections 226.31 and 226.32 of Regulation Z. Broker warrants that it has reviewed and analyzed the Borrower's credit, income, debts, and overall financial condition, and has discussed the results of its review and analysis with the Borrower, and based thereon, Broker has a reasonable basis to believe that the Borrower is capable to repay the loan in accordance with the loan terms. Broker warrants that the Borrower has provided no documentation indicating that Borrower is unable to repay the loan.

3.10 Insurance: Broker hereby represents and warrants that it currently has and will maintain adequate commercial general liability and errors and omissions insurance coverages for professional negligence claims, advertising injury claims, data breach claims, identity theft claims, and intellectual property claims while this Agreement is in effect all in amounts reasonably acceptable to the Lender.

3.11 Disclosures, Documentation, and Avoidance of Misstatements: Broker shall act diligently and with due care to comply with all applicable regulations and laws pertaining to mortgage lending and to provide Borrower and Lender with complete, timely, truthful, and accurate disclosures, documentation, and information of all facts that Broker knows, should know, or reasonably suspects in good faith that would or may affect: (a) the Borrower's decision to submit a loan application; (b) the Borrower's qualification for a loan; (c) the applicable interest rate and fees including but not limited to Broker's compensation and closing costs; (d) the Lender's assessment or underwriting of a loan; (e) the validity or enforceability of any loan obligation resulting from any approved loan; and/or (f) the valuation or appraisal of any real property as security for any loan submitted by Broker to Lender for consideration. Broker acknowledges that any intentional misstatement of fact submitted by Broker or Borrower in connection with a loan may be reported by Lender to appropriate regulatory agencies or law enforcement. All information, reports, exhibits, schedules, financial statements or certificates of Broker, any guarantor or any affiliate thereof or any of their officers furnished or to be furnished to Lender in connection with this Agreement, the guaranty or any other agreement between Broker, any guarantor or Lender is true and complete and does not omit to disclose any material facts necessary to make the statements herein or therein, in light of the circumstances in which they are made, not misleading

3.12 Reimbursement for Early Payoff Loans (Premium/Credit Recapture): In the event that any Broker-originated loan is prepaid in an amount equal or greater than 10% of the amount due and owing under the related note within 210 days of the loan's funding date, whether by Borrower's sale of the real property, loan refinance, or otherwise, Broker shall promptly refund and reimburse Lender: (a) any related Premium above par and/or any other pricing enhancements paid by Lender or credited to the Borrower's closing costs or (b) the service release price ("SRP") of no less than 1.750% of the loan amount that was included in the final pricing of the loan, whichever is greater, plus Lender's attorney fees and costs to recover these sums from Broker. This covenant is a material inducement for Lender to enter this Agreement, Lender would not enter this Agreement without this covenant, and Lender has relied upon this covenant to enter this Agreement.

3.13 Early Payment Defaults (Broker's Loan Repurchase Obligations): For any loan originated by Lender from a Loan Submission that can be sold to or insured by a government agency, department, or federally backed program, Broker shall repurchase the loan if any of the first four (4) scheduled monthly payments is ninety (90) days delinquent. For all other types of loans originated by Broker, Broker shall repurchase the loan if any of the first four (4) scheduled monthly payments is thirty (30) days delinquent. Such delinquent loans shall be deemed in early payment default status and Broker shall have five (5) business days from receipt of Lender's notice to repurchase said loans at the then current repurchase price stated in the notice. For purposes of this section, a loan becomes "delinquent" when a scheduled monthly payment is not received by Lender or its assigns by the scheduled payment due date; an additional day of delinquency shall accrue for each consecutive day that the payment is not received by Lender or its assigns; however, any loan that is delinquent for a full calendar month shall be deemed thirty (30) days delinquent without regard for the number of days in that month. Broker shall not advance funds for or on behalf of any Borrower for any loan payment or otherwise make funds available to any Borrower to avoid or cure any default by Borrower. Furthermore, any payment for which Lender has deducted funds at the time of closing a loan originated by Broker is not and shall not be considered as the first payment due from Borrower after the loan closing date. Broker's repurchase obligation under this section is separate and in addition to any other repurchase obligations, early payoff obligations, and other remedies available to Lender under this Agreement or at law or equity.

3.14 Due Care and Diligence to Inform Borrower: Broker covenants to use due care to fully inform and provide the Borrower with all disclosures, information, and requirements pursuant to state and federal laws governing the application, submission, and issuance of mortgage loans, including but not limited to fully disclosing all terms and conditions to reimburse any premiums above par rates, price enhancements, and premium/credit recapture sums that may be owed in the event of any early pay-off of the loan. This covenant is a material inducement for Lender to enter into this Agreement, Lender would not have entered this Agreement without this covenant from Broker, and Lender has relied upon this covenant to enter into this Agreement.

3.15 Exclusionary Lists: Broker does not and shall not employ anyone, and shall not receive any loan application from any borrower, whose name appears on (a) HUD's exclusionary list, including, but not limited to, LDP, GSA, and CAIVRS, (b) the most recently published Freddie Mac Exclusionary List; (c) the most recent list which may be published from time to time by any government-sponsored agency which shows individuals or companies which are excluded from doing business with that agency.

3.16 Anti Money Laundering: Broker shall comply with all applicable anti-money laundering laws and regulations, including without limitation the USA Patriot Act of 2001, The Bank Secrecy Act ("BSA") and the statutes, rules and regulations administered by the Office of Foreign Assets Control ("OFAC"), the Financial Crimes Enforcement Network ("FinCEN") and any other similar local, State or Federal Law related to anti money laundering and financial transaction security and integrity that may be enacted from time to time (collectively, the "Anti-Money Laundering Laws"). Broker has established an anti-money laundering compliance program as required by the Anti-Money Laundering Laws, has conducted the requisite due diligence in connection with the origination of each mortgage loan for purposes of the Anti-Money Laundering Laws, including with respect to the legitimacy of the applicable borrower and the origin of the assets used by the said borrower to purchase the property in question, and maintains, and will maintain, sufficient information to identify the applicable borrower for purposes of the Anti-Money Laundering Laws. Broker agrees to provide the copy of anti-money laundering compliance program established by the company to Lender for review. No mortgage loan is subject to nullification pursuant to Executive Order 13224 (the "Executive Order") or the regulations promulgated by the Office of Foreign Assets Control of the United States Department of the Treasury (the "OFAC Regulations") or in violation of the Executive Order or the OFAC Regulations, and the borrower is not subject to the provisions of such Executive Order or the OFAC Regulations nor listed as a "blocked person" for purposes of the OFAC Regulations.

3.17 Loan Submission: No fraud, error, omission, misrepresentation, negligence or similar occurrence with respect to the Loan Submission or loan has taken place on the part of the Broker, the Borrower, or any other Person, including, without limitation, any appraiser, title company, closing or settlement agent, realtor, builder, developer or any other party involved in the origination, sale of the loan or the sale of the related mortgaged property or in the application of any insurance in relation to such loan. The documents, instruments and agreements submitted for loan underwriting were not falsified and contain no untrue statement of material fact or omit to state a material fact required to be stated therein or necessary to make the information and statements therein not misleading. No Borrower utilized a false identity in the origination of such loan. The Loan Submission qualifies in all respects for the loan product offered by Lender for which the Loan Submission is submitted.

4. Indemnification / Repurchase. Broker hereby agrees to fully indemnify, defend, and hold harmless Lender and Lender's subsidiaries, successors, and assigns from and against any demands, lawsuits, liabilities, damages, judgments, awards, costs, and expenses, including Lender's attorney's fees (collectively referred to as "Claims" or "Losses") incurred by Lender and arising from or in connection with: (a) Broker's breach of any duty owed to Lender under this Agreement; (b) Broker's failure to perform any duty owed to a Borrower or third party; (c) any Claim by a Borrower or third party resulting from Lender's lawful refusal, rejection, or declined loan request; and/or (d) any Claim by a Borrower or third party alleging that Lender and Broker are partners, joint venturers, affiliates, employer or employee of each other, principal or agent of each other, representatives of each other, or otherwise in association with each other. If Lender becomes subject to a Claim of any Borrower, financial institution, or governmental agency with respect to any loan originated by Broker wherein the alleged facts constitute a breach of any one or more of the terms, warranties, covenants, or representations made or assumed by Broker in this Agreement, Broker shall repurchase the subject loan, at Lender's option and upon Lender's written demand, at the repurchase price then demanded by Lender in addition to Broker's duty to indemnify and defend Lender under this indemnification provision. Broker's promise to indemnify Lender is a material provision of this agreement which Lender has relied upon and without which Lender would not have entered this Agreement.

Should the Lender (x) discover that any of the representations and warranties were incorrect or breached as of the respective Loan Submission Date, or closing of the related loan, and such breach adversely affected the value of a loan or the



interest of the Lender therein, or (y) any investor demands repurchase of a loan (in each case, a "Breach"), the Lender shall so notify the Broker in writing and provide the Broker with reasonable supporting documentation or information sufficient to identify the nature of the Breach (the "Notice"). Within thirty (30) days after the delivery of the Notice, the Broker may respond in writing to such Notice (the "Response"). After receiving the Response, or, if no Response is timely received from the Broker, then, to the extent that such Breach is not cured or not sufficiently rebutted, then the Lender shall so notify the Broker of its request for repurchase. Within ten (10) days after its receipt of the repurchase request, Broker shall acquire the loan with a Breach that is the subject of the Notice from the Lender at the Repurchase Price. If Broker does not acquire such loan in the time frame provided above, then the Lender shall have all of its rights at law and equity to enforce these provisions.

For purposes of this Agreement "Repurchase Price" means, with respect to any loan to be repurchased, (i) a price equal to the unpaid principal balance, plus (ii) interest on such unpaid principal balance at the mortgage interest rate from the last date through which interest has been paid by or on behalf of the Borrower through the last calendar day of the month in which such repurchase occurs, plus (iii) the amount of any outstanding servicing advances, plus (iv) all reasonable actual third party out of pocket costs and expenses incurred by the Lender or any successor servicer, including without limitation, costs and expenses, including reasonable legal fees, incurred in the enforcement of the Broker's repurchase obligation hereunder, plus (v) all administrative fees levied by any investor, including a \$1,500.00 fee from the Lender in addition to any investor fees.

4.1 Survival of Duty to Indemnify and/or Repurchase. Broker's duty to indemnify Lender or repurchase any loan shall survive the termination of this Agreement for all Claims that arise from or relate back to the time when this Agreement was in effect prior to termination. Broker's duty to indemnify Lender or repurchase any loan shall not be diminished Lender taking any of the following actions, whether or not with notice to Broker: (a) Lender's sale, liquidation, retirement, repurchase, or repayment of any loan; (b) Lender's notice of foreclosure or foreclosure upon any real property securing any loan originated by Broker; or (c) Lender's sale or resale of the real property securing any loan. The remedies provided for in this Section shall survive the termination of the Agreement and such remedies are cumulative and non-exclusive, and shall be in addition to any and all other remedies available to Lender. The remedies provided in this Section shall not be affected by Lender taking any of the following actions with or without notice to Broker: (i) liquidation, repayment, retirement, or sale or resale of any loan; (ii) foreclosure of any loan; (iii) sale or resale of any real or personal property securing any loan, or (iv) underwriting or any other act relating to the related loan

5. Events of Default. Broker's failure to perform any duty under this Agreement, including but not limited to Broker's breach of any obligation arising from or created in the attached exhibits, Mortgage Broker Application form, Loan Fraud Prevention Acknowledgement, Lender-Paid Broker Compensation Election Agreement, Permission to Send Fax and Email form, Request of Username and Password form, and any other ancillary documents, supplements, addenda, and amendments to this Agreement, shall be deemed a material breach of this Agreement which, if uncured within 5 business days of notice of breach, shall be deemed a default of this Agreement entitling Lender to repurchase and indemnification hereunder, including without limitation the right to seek other remedies at law and equity on a non-exclusive basis. Upon Broker's default, Lender shall have the right to immediately terminate this Agreement and refuse pending and future Loan Submissions.

5.1 Default After Notice of Early Payoff of Loan or Early Payment Default: In the event that any loan is (i) prepaid in an amount equal or greater than 10% of the amount due and owing under the related note within 210 days of the loan's funding or closing date, or (ii) suffers an early payment default as contemplated by Section 3.13, then in such instance the Lender will provide Broker with written notice of such event and demand the reimbursement of any premium or other price enhancement that was paid by Lender or credited to Borrower's closing costs in connection with such early prepayment, or repurchase the related loan at the Repurchase Price in connection with an early payment default; Broker shall have thirty (30) days from the date of the notice to reimburse Lender. Broker's failure to remit the reimbursement to Lender within thirty (30) days of Lender's notice shall constitute a default of this Agreement. Upon Broker's default, Lender's legal counsel will issue a final written notice to Broker demanding the reimbursement due plus any attorney's fees incurred by Lender for legal consultation and attorney's drafting the final written notice. If Broker fails to reimburse Lender after receiving final written notice, Lender will have the right to file suit for damages including recovery of attorney's fees.

6. Loan Fraud Prevention. In addition to the Loan Fraud Prevention Acknowledgement attached to this Agreement and signed by Broker, Broker agrees that in the event that Lender is forced to repurchase any loan originated by Broker that is determined to have been procured or obtained by deceitful practices or by any fraudulent means of Broker and/or Borrower, Broker and/or Borrower shall be liable to Lender for all damages, penalties, and losses incurred by Lender as a result of the Broker's and/or Borrower's fraudulent acts. Lender's remedies shall include, without limitation, the right to demand Broker and/or

Borrower to immediately pay-off, repurchase, or refinance the loan in addition to any other legal and equitable remedies available to Lender.

7. Termination of this Agreement. This Agreement may be terminated by either Party with written notice to the other Party upon an event of default as described above or the breach of any term or duty owed under this Agreement, including but not limited to a Party: (a) commencing a bankruptcy or insolvency proceeding; (b) being charged or investigated of any felony crime, regulatory action or ethical violation; and/or (c) being criminally or civilly charged in any action alleging theft, embezzlement, acts of moral turpitude, fraud, bad faith, gross negligence, breach of fiduciary duty, or ethical violations.

8. Joint and Several Liability of Broker Signatories. All Broker signatories to this Agreement are jointly and severally liable to Lender for the performance of any duty or obligation owed to Lender under the terms of this Agreement, including but not limited to Broker's duty to refund, return, or reimburse Lender any compensation, premiums, credit recapture, or price enhancements resulting from a Borrower's early pay-off of any loan. Broker acknowledges that this provision for joint and several liability is a material inducement for Lender to enter into this Agreement, Lender would not have entered this Agreement without Broker's agreement to this provision, and Lender has relied upon this provision to enter into this Agreement.

9. Disclaimer and Limitation of Liability. Lender shall not be liable for any damages arising from or related to Broker's use of Lender's website and related mortgage applications, software, and systems which are managed or administered by other third party service providers, including but not limited to any damages arising from or related to Broker's communications transmitted via email or facsimile between Broker and Lender. In the event that Lender is found jointly or individually liable to Broker or Borrower for any damages arising from or related to any loan transaction originated by Broker, Lender's liability shall be limited to actual damages incurred, and in no case may Lender be held liable for any consequential damages or lost profits.

10. General Provisions.

10.1 Non-Assignable. Neither this Agreement nor any right or duty created herein may be assigned by Broker without the express, prior written consent of Lender. Such consent, if given, shall be limited to the particular assignment for which it was requested and shall not be deemed as a continuing consent for any future or subsequent assignments.

10.2 Assumption of Obligations. Any buyer, assignee, transferee, or successor of Broker's interest shall be deemed to have assumed Broker's obligations owed to Lender under this Agreement. This Agreement and all rights and obligations created herein shall be binding on the parties' successors in interest, heirs and assigns.

10.3 Right to Offset. Any amounts that Broker owes to Lender under this Agreement may, at Lender's option and sole discretion, be offset by Lender against any payments then or thereafter owed by Lender to Broker.

10.4 Attorney's Fees. If either party initiates litigation or formal legal proceeding to enforce any right, obligation, or duty created in this Agreement, including but not limited to the event of Broker's breach or default of its obligations under this Agreement, or to interpret any provision of this Agreement, the Prevailing Party (as hereafter defined) in any such action, proceeding, or appeal thereon, shall be entitled to recover its actual reasonable attorney's fees and costs from the non-prevailing party. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term "Prevailing Party" shall include, without limitation, a party who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other party of its claim or defense. The attorney's fee award shall not be computed in accordance with any court fee schedule, unless mandated by statute, but shall be such as to fully reimburse all attorney's fees reasonably incurred. Prior to litigation, Broker shall pay for Lender's reasonable attorney's fees and costs incurred prior to Lender filing suit for legal services in connection with Lender's pre-litigation enforcement of any right or duty under this Agreement, whether or not litigation is subsequently commenced, with \$1,500.00 as a minimum attorney's fee per occurrence that Broker agrees to pay Lender for pre-litigation attorney's fees.

10.5 Applicable Law. This Agreement and the rights and duties created herein shall be governed and interpreted under the laws of the State of California without regard for any conflicts of laws principles.

10.6 Forum Selection and Consent to Jurisdiction. **By initialing here \_\_\_\_\_**, Broker agrees that any and all legal actions, proceedings, or lawsuits arising from or related to this Agreement shall be adjudicated in a federal or state court located in the County of Los Angeles, California. Broker hereby represents and acknowledges that it has had minimum contacts with the State of California by virtue of this Agreement and Broker's other business transactions within the State of California, and Broker hereby consents to the personal jurisdiction of the courts in the State of California. As such, Broker hereby submits and

consents to the jurisdiction of the Superior Court of the State of California and the U.S. District Court, Central District of California, and in doing so Broker expressly waives its right to defend based on forum non conveniens. Broker warrants it has had a reasonable opportunity to review this waiver with its attorney and that this waiver is fully negotiated and agreed upon knowingly and voluntarily.

10.7 Waiver of Personal Service of Process. By initialing here \_\_\_\_\_, Broker waives personal service of any and all legal process and agrees that all such service of process may be made upon Broker by certified or registered mail, return receipt requested, addressed to Broker at its then current business address, and service will be deemed effective and completed ten (10) days after confirmation of delivery is received by Lender or ten (10) days after actual delivery to Broker, whichever is later. Broker warrants that it has had a reasonable opportunity to review this waiver with its attorney and that this waiver is fully negotiated and agreed upon knowingly and voluntarily.

10.8 Waiver of Jury Trial. By initialing here \_\_\_\_\_, Broker waives its rights to a jury trial of any claim or cause of action arising from or related to this Agreement. Broker acknowledges that this waiver is a material inducement to enter into business relations and that each has relied upon this waiver to enter into this Agreement. Broker represents and warrants that it has had a reasonable opportunity to review this waiver with its attorney and that this waiver is fully negotiated and agreed upon knowingly and voluntarily by the parties.

10.9 Notices. All notices required hereunder shall be in writing and shall be deemed as effective notice upon: (a) actual delivery, if personally delivered; (b) one business day after issuance or transmission, if issued or transmitted by email or facsimile; (c) two business days after deposit for overnight delivery with a nationally recognized courier service; or (d) five business days after deposit for certified mail, registered mail, or first class mail with the United States Postal Service with the addressee's last known address appearing thereon.

10.10 Waivers and Remedies. The failure or delay to exercise any right or remedy available under this Agreement shall not act as a waiver of any other right or remedy available at law or equity, and no single or partial exercise of a right or remedy shall preclude the full exercise thereof nor the exercise of any other right or remedy. No waiver of any provision in this Agreement shall be deemed a waiver of any other provision contained herein, nor shall any waiver constitute a continuing waiver. No waiver shall be binding unless executed in writing by the party making the waiver, and all remedies shall be cumulative and nonexclusive.

10.11 Power of Attorney. Broker does hereby irrevocably make, constitute and appoint Lender and any of its properly designated officers, employees, or agents as the true and lawful attorneys of Broker with power to sign the name of Broker on any document or instrument that, in Lender's reasonable opinion, must be signed in order to effectuate the terms and provisions of this Agreement, including, but not limited to, any assignments, and/or endorsements of loan documents pertaining to any loan Funded by Lender. This power, being coupled with an interest, is irrevocable until this Agreement is terminated and all of Broker's obligations hereunder have been fully satisfied. At Lender's request, Broker shall provide an executed power of attorney in the form required by Lender.

10.12 Review of Broker Operations. Lender shall be entitled to audit Broker's operations, practices, policies and procedures, inspect its premises, from time to time during business hours upon reasonable notice, so that Lender may perform quality control tests. Broker shall fully cooperate with Lender in such reviews. Broker agrees to provide to Lender at least annually (or more frequently if reasonably required by Lender) current financial statements consisting of profit and loss statements and balance sheets and any other documents, records or other information reasonably requested by Lender. "Current" is defined as the most recently completed quarter. Broker authorizes Lender to obtain a business credit report with respect to Broker upon Broker's execution of this Agreement and from time to time thereafter as deemed necessary or appropriate by Lender.

10.13 Fully Integrated Agreement. This Agreement with attached exhibits, Mortgage Broker Application form, Loan Fraud Prevention Acknowledgement, Lender-Paid Broker Compensation Election Agreement, Permission to Send Fax and Email form, Request of Username and Password form, and any other ancillary documents, supplements, addenda, and amendments, constitutes the entire agreement between the parties and supersedes all other prior and contemporaneous agreements, representations, and understandings between the parties regarding the subject matter of this Agreement. No supplements, addenda, or amendments to this Agreement are binding unless executed in writing by all parties hereto.

10.14 Severability of Void or Unenforceable Provisions. Any provision or part thereof that is found to be legally void or unenforceable shall be severed from this Agreement, and the remaining parts of this Agreement shall remain valid and enforceable to the fullest extent and shall remain in full force and effect.

10.15 Further Acts. Each party hereto shall perform any and all further acts that are reasonably necessary to perform their respective duties and to carry out the provisions of this Agreement. Broker understands and agrees that time is of the essence with respect to each and every provision of this Agreement.

10.16 Paragraph Headings. The headings used throughout this Agreement are for purposes of reference only and have no legal significance other than serving as a title or description of the particular paragraph, section, or provision.

10.17 Counterparts, Electronic/Facsimile Signature. This Agreement may be signed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original, but all of which shall collectively constitute one and the same agreement. The Agreement shall be effective with the facsimile or scanned signature of the parties, and such facsimile or scanned signature shall be deemed an original for all purposes.

10.18 Dates of Signatures. Any dates appearing below adjacent to the parties' signatures are for reference purposes only. The effective date of this Agreement is the Effective Date first written above.

[SIGNATURES FOLLOW ON NEXT PAGE]



MORTGAGE BROKER AGREEMENT

IN WITNESS WHEREOF, THE PARTIES AGREEING TO ALL OF THE ABOVE TERMS AND CONDITIONS HEREBY EXECUTE THIS AGREEMENT AND CAUSE IT TO BE LEGALLY BINDING AS OF THE EFFECTIVE DATE FIRST STATED ABOVE:

Lender:

First Standard Financial Corp
(dba In Motion Mortgage, and NexCap Home Loans)
3435 Wilshire Boulevard, Suite 888
Los Angeles, CA 90010

• By:
Signature

Dated

Name and Title

Broker:

Company Name

Address

City, State and Zip Code

• By:
Signature

Dated

Name and Title

•
Signature of Principal Owner

Dated

Name of Principal Owner

•
Signature of Broker of Record (Individual Licensee)

Dated

Name of Broker of Record (Individual Licensee)

**EXHIBIT "A"**

**General List of Broker Services**

(a) Gathering and organizing information from the loan applicant (Borrower) and completing the application. Completing a prospective loan applicant's worksheet may substitute for the act of completing a mortgage loan application if, for reasons of efficiency, the Lender prefers to have the actual application completed at a central location.

(b) Analyzing the loan applicant's income, debt, and prequalifying the loan applicant to determine the maximum amount the loan applicant can afford.

(c) Educating the loan applicant about the home-buying and financing process, advising the loan applicant about the different types of loan products available, and demonstrating how closing costs and monthly payments would vary under each loan product.

(d) Collecting financial information (for example, tax returns and bank statements) and other related documents that are part of the loan application process.

(e) Initiating or ordering verifications of employment (VOE's) and verifications of deposits (VOD's).

(f) Initiating or ordering requests for mortgage verifications and other loan verifications.

(g) Initiating or ordering appraisals of real property.

(h) Initiating or ordering inspections and/or engineering reports regarding the real property.

(i) Providing the loan applicant with required legal disclosures such as Truth In Lending disclosures, Good Faith Estimate disclosure, and others.

(j) Assisting the loan applicant in understanding and clearing credit problems.

(k) Maintaining regular contact with the loan applicant, real estate broker or salesperson, and lender from the time of loan application to closing, keeping them informed of the status of the loan application, and gathering additional information as needed.

(l) Ordering legal documents, title documents, etc.

(m) Determining whether the secured property is located in a flood zone and/or ordering a flood determination.

(n) Participating in the loan closing process.



# Request for Taxpayer Identification Number and Certification

Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

**Give form to the  
requester. Do not  
send to the IRS.**

**Before you begin.** For guidance related to the purpose of Form W-9, see *Purpose of Form*, below.

<b>Print or type.</b>  <b>See Specific Instructions on page 3.</b>	<b>1</b>	Name of entity/individual. An entry is required. (For a sole proprietor or disregarded entity, enter the owner's name on line 1, and enter the business/disregarded entity's name on line 2.)	
	<b>2</b>	Business name/disregarded entity name, if different from above.	
	<b>3a</b>	Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.  <input type="checkbox"/> Individual/sole proprietor <input type="checkbox"/> C corporation <input type="checkbox"/> S corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate  <input type="checkbox"/> LLC. Enter the tax classification (C = C corporation, S = S corporation, P = Partnership) _____ <b>Note:</b> Check the "LLC" box above and, in the entry space, enter the appropriate code (C, S, or P) for the tax classification of the LLC, unless it is a disregarded entity. A disregarded entity should instead check the appropriate box for the tax classification of its owner.  <input type="checkbox"/> Other (see instructions) _____	<b>4</b> Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):  Exempt payee code (if any) _____  Exemption from Foreign Account Tax Compliance Act (FATCA) reporting code (if any) _____  <i>(Applies to accounts maintained outside the United States.)</i>
	<b>3b</b>	If on line 3a you checked "Partnership" or "Trust/estate," or checked "LLC" and entered "P" as its tax classification, and you are providing this form to a partnership, trust, or estate in which you have an ownership interest, check this box if you have any foreign partners, owners, or beneficiaries. See instructions _____ <input type="checkbox"/>	
	<b>5</b>	Address (number, street, and apt. or suite no.). See instructions.	Requester's name and address (optional)
	<b>6</b>	City, state, and ZIP code	
	<b>7</b>	List account number(s) here (optional)	

## Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

<b>Social security number</b>											
				-			-				
<b>or</b>											
<b>Employer identification number</b>											
				-							

**Note:** If the account is in more than one name, see the instructions for line 1. See also *What Name and Number To Give the Requester* for guidelines on whose number to enter.

## Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and, generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person	Date
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## General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

## What's New

Line 3a has been modified to clarify how a disregarded entity completes this line. An LLC that is a disregarded entity should check the appropriate box for the tax classification of its owner. Otherwise, it should check the "LLC" box and enter its appropriate tax classification.

New line 3b has been added to this form. A flow-through entity is required to complete this line to indicate that it has direct or indirect foreign partners, owners, or beneficiaries when it provides the Form W-9 to another flow-through entity in which it has an ownership interest. This change is intended to provide a flow-through entity with information regarding the status of its indirect foreign partners, owners, or beneficiaries, so that it can satisfy any applicable reporting requirements. For example, a partnership that has any indirect foreign partners may be required to complete Schedules K-2 and K-3. See the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

## Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS is giving you this form because they

must obtain your correct taxpayer identification number (TIN), which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid).
- Form 1099-DIV (dividends, including those from stocks or mutual funds).
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds).
- Form 1099-NEC (nonemployee compensation).
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers).
- Form 1099-S (proceeds from real estate transactions).
- Form 1099-K (merchant card and third-party network transactions).
- Form 1098 (home mortgage interest), 1098-E (student loan interest), and 1098-T (tuition).
- Form 1099-C (canceled debt).
- Form 1099-A (acquisition or abandonment of secured property).

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

**Caution:** If you don't return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What is backup withholding*, later.

**By signing the filled-out form**, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued);
2. Certify that you are not subject to backup withholding; or
3. Claim exemption from backup withholding if you are a U.S. exempt payee; and
4. Certify to your non-foreign status for purposes of withholding under chapter 3 or 4 of the Code (if applicable); and
5. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting is correct. See *What Is FATCA Reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding.** Payments made to foreign persons, including certain distributions, allocations of income, or transfers of sales proceeds, may be subject to withholding under chapter 3 or chapter 4 of the Code (sections 1441–1474). Under those rules, if a Form W-9 or other certification of non-foreign status has not been received, a withholding agent, transferee, or partnership (payor) generally applies presumption rules that may require the payor to withhold applicable tax from the recipient, owner, transferor, or partner (payee). See Pub. 515, *Withholding of Tax on Nonresident Aliens and Foreign Entities*.

The following persons must provide Form W-9 to the payor for purposes of establishing its non-foreign status.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the disregarded entity.
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the grantor trust.
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust and not the beneficiaries of the trust.

See Pub. 515 for more information on providing a Form W-9 or a certification of non-foreign status to avoid withholding.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person (under Regulations section 1.1441-1(b)(2)(iv) or other applicable section for chapter 3 or 4 purposes), do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515). If you are a qualified foreign pension fund under Regulations section 1.897(l)-1(d), or a partnership that is wholly owned by qualified foreign pension funds, that is treated as a non-foreign person for purposes of section 1445 withholding, do not use Form W-9. Instead, use Form W-8EXP (or other certification of non-foreign status).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a saving clause. Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if their stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first Protocol) and is relying on this exception to claim an exemption from tax on their scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include, but are not limited to, interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third-party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

**Payments you receive will be subject to backup withholding if:**

1. You do not furnish your TIN to the requester;
2. You do not certify your TIN when required (see the instructions for Part II for details);
3. The IRS tells the requester that you furnished an incorrect TIN;
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only); or
5. You do not certify to the requester that you are not subject to backup withholding, as described in item 4 under "*By signing the filled-out form*" above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier.

## What Is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all U.S. account holders that are specified U.S. persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you are no longer tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account, for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

• **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note for ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040 you filed with your application.

• **Sole proprietor.** Enter your individual name as shown on your Form 1040 on line 1. Enter your business, trade, or “doing business as” (DBA) name on line 2.

• **Partnership, C corporation, S corporation, or LLC, other than a disregarded entity.** Enter the entity’s name as shown on the entity’s tax return on line 1 and any business, trade, or DBA name on line 2.

• **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. Enter any business, trade, or DBA name on line 2.

• **Disregarded entity.** In general, a business entity that has a single owner, including an LLC, and is not a corporation, is disregarded as an entity separate from its owner (a disregarded entity). See Regulations section 301.7701-2(c)(2). A disregarded entity should check the appropriate box for the tax classification of its owner. Enter the owner’s name on line 1. The name of the owner entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For

example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner’s name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity’s name on line 2. If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, enter it on line 2.

### Line 3a

Check the appropriate box on line 3a for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3a.

IF the entity/individual on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation.
• Individual or • Sole proprietorship	Individual/sole proprietor.
• LLC classified as a partnership for U.S. federal tax purposes or • LLC that has filed Form 8832 or 2553 electing to be taxed as a corporation	Limited liability company and enter the appropriate tax classification: P = Partnership, C = C corporation, or S = S corporation.
• Partnership	Partnership.
• Trust/estate	Trust/estate.

### Line 3b

Check this box if you are a partnership (including an LLC classified as a partnership for U.S. federal tax purposes), trust, or estate that has any foreign partners, owners, or beneficiaries, and you are providing this form to a partnership, trust, or estate, in which you have an ownership interest. You must check the box on line 3b if you receive a Form W-8 (or documentary evidence) from any partner, owner, or beneficiary establishing foreign status or if you receive a Form W-9 from any partner, owner, or beneficiary that has checked the box on line 3b.

**Note:** A partnership that provides a Form W-9 and checks box 3b may be required to complete Schedules K-2 and K-3 (Form 1065). For more information, see the Partnership Instructions for Schedules K-2 and K-3 (Form 1065).

If you are required to complete line 3b but fail to do so, you may not receive the information necessary to file a correct information return with the IRS or furnish a correct payee statement to your partners or beneficiaries. See, for example, sections 6698, 6722, and 6724 for penalties that may apply.

### Line 4 Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third-party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys’ fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space on line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2).

- 2—The United States or any of its agencies or instrumentalities.
- 3—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.
- 4—A foreign government or any of its political subdivisions, agencies, or instrumentalities.
- 5—A corporation.
- 6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or territory.
- 7—A futures commission merchant registered with the Commodity Futures Trading Commission.
- 8—A real estate investment trust.
- 9—An entity registered at all times during the tax year under the Investment Company Act of 1940.
- 10—A common trust fund operated by a bank under section 584(a).
- 11—A financial institution as defined under section 581.
- 12—A middleman known in the investment community as a nominee or custodian.
- 13—A trust exempt from tax under section 664 or described in section 4947.

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

IF the payment is for . . .	THEN the payment is exempt for . . .
• Interest and dividend payments	All exempt payees except for 7.
• Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
• Barter exchange transactions and patronage dividends	Exempt payees 1 through 4.
• Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5. <sup>2</sup>
• Payments made in settlement of payment card or third-party network transactions	Exempt payees 1 through 4.

<sup>1</sup> See Form 1099-MISC, Miscellaneous Information, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) entered on the line for a FATCA exemption code.

- A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37).
- B—The United States or any of its agencies or instrumentalities.
- C—A state, the District of Columbia, a U.S. commonwealth or territory, or any of their political subdivisions or instrumentalities.
- D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i).
- E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i).

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state.

G—A real estate investment trust.

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940.

I—A common trust fund as defined in section 584(a).

J—A bank as defined in section 581.

K—A broker.

L—A trust exempt from tax under section 664 or described in section 4947(a)(1).

M—A tax-exempt trust under a section 403(b) plan or section 457(g) plan.

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

**Line 5**

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, enter "NEW" at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

**Line 6**

Enter your city, state, and ZIP code.

**Part I. Taxpayer Identification Number (TIN)**

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have, and are not eligible to get, an SSN, your TIN is your IRS ITIN. Enter it in the entry space for the Social security number. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/EIN](http://www.irs.gov/EIN). Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or Form SS-4 mailed to you within 15 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and enter "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, you will generally have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon. See also *Establishing U.S. status for purposes of chapter 3 and chapter 4 withholding*, earlier, for when you may instead be subject to withholding under chapter 3 or 4 of the Code.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third-party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee <sup>1</sup>
b. So-called trust account that is not a legal or valid trust under state law	The actual owner <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The owner <sup>3</sup>
7. Grantor trust filing under Optional Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))**	The grantor*

For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing Form 1041 or under the Optional Filing Method 2, requiring Form 1099 (see Regulations section 1.671-4(b)(2)(i)(B))**	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name on line 1, and enter your business or DBA name, if any, on line 2. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.)

\* **Note:** The grantor must also provide a Form W-9 to the trustee of the trust.

\*\* For more information on optional filing methods for grantor trusts, see the Instructions for Form 1041.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information, such as your name, SSN, or other identifying information, without your permission to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax return preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity, or a questionable credit report, contact the IRS Identity Theft Hotline at 800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 877-777-4778 or TTY/TDD 800-829-4059.

**Protect yourself from suspicious emails or phishing schemes.**

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Go to [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and territories for use in administering their laws. The information may also be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payors must generally withhold a percentage of taxable interest, dividends, and certain other payments to a payee who does not give a TIN to the payor. Certain penalties may also apply for providing false or fraudulent information.