

Contracting Paperwork





Contracting/Termination Instructions



BrightBenefits, a division of National Guardian Life Insurance Company (NGL) • 100 Winners Circle, Ste 220 • Brentwood, TN 37027
Phone (629) 224-0181 • Fax (877) 737-0518 • Email producercontracting@brightbenefits.com • www.brightbenefits.com

BrightBenefits Contracting Instructions

1. All contracting paperwork should be submitted by the individual agent or agency representative to BrightBenefits for review. Any agent in the following states will need to be appointed, **prior** to solicitation of BrightBenefits business: Montana, New Mexico, Pennsylvania, Washington and Wisconsin.

2. Contracting requests must be complete, signed and dated and include the following:

For an **Individual Agent or Agency** (one not affiliated with an Agency) will include the following completed documents:

- Contracting Cover Sheet
- Contracting Questionnaire
- Agent/Agency Agreement
- Business Associate Agreement
- General Authorization and Release
- Fair Credit Reporting Act Consumer Disclosure
- W-9
- Copies of license(s)

For an **Agent affiliated with an Agency** will include the following completed documents:

- Contracting Cover Sheet
- Contracting Questionnaire
- General Authorization and Release
- Fair Credit Reporting Act Consumer Disclosure
- Copies of license(s)

Submit completed documents via secure email to producercontracting@brightbenefits.com, via fax to (877) 737-0518, or via FTP site. Submission instructions are on page 4.

3. BrightBenefits will process the request for a contract and appointment with the state(s) and the criminal background check.
4. BrightBenefits will email the executed contract and state appointment approval dates to the Agent or Agency once completed.
5. BrightBenefits will keep a fully documented file for each agent or agency. A fully documented file should contain copies of all licenses, completed contracting forms, criminal background check reports, state appointments and any correspondence.
6. NGL does not, at this time, have any way to accommodate Just in Time (JIT) appointments.

BrightBenefits Termination Instructions

Termination requests should be emailed to BrightBenefits at producercontracting@brightbenefits.com and include the name of the individual agent or agency to be terminated.

Other Items

Questions on this Contracting Paperwork (including how to submit via secure email, fax, or FTP site) should be emailed to BrightBenefits at producercontracting@brightbenefits.com.

Changes or updates to profile information such as name, address, contact information, or license information should be emailed to BrightBenefits at producercontracting@brightbenefits.com.



Background Analysis



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Applications disclosing the following information will result in denial from Contracting:

- Insurance license has been previously suspended or cancelled for cause.
- Party to outstanding or unsettled insurance department or policy holder complaints.

Applications disclosing the following information will result in a review from BrightBenefits:

- Has pending or been convicted of a Felony involving dishonesty, breach of trust or of a crime under 18 U.S.C. Section 1033, other felony convictions or more than 2 misdemeanor occurrences and/or convictions in the past three years. Will require review by Marketing as well as Legal.
- Any combination of past due/collection accounts that is less than \$15,000 total and fewer than ten different accounts with no tax liens or civil judgments within the past two years.
- Any combination of tax liens/civil judgments totaling less than \$15,000 and five or less different actions and no past due/collections accounts within the past two years.
- Any discharged bankruptcy with no past due/collections accounts or tax liens/civil judgments within the past two years.



How to Submit Contracting Paperwork



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There are three ways a producer can submit Contracting Paperwork:

1. Secure email to producercontracting@brightbenefits.com;
2. Fax to (877) 737-0518; or
3. Through a secure FTP site

Below are instructions for accessing the FTP site:

1. Open <https://ga.brightbenefits.com:442/webclient/Login.xhtml> in your web browser, or [CLICK HERE](#), and log in.

Username: BrightBenefits
Password: Bright2020

The login screen features the BrightBenefits logo at the top. Below it are two input fields: the first contains 'BrightBenefits' and the second contains 'Bright2020'. A blue 'Login' button is positioned below the password field. At the bottom, there is a 'DISCLAIMER NOTICE' section with the text: 'This system is restricted to authorized users for legitimate business purposes. By entering this system, you agree to follow all policies of National Guardian Life Insurance Company.'

2. Once logged in, click drop_files

The interface shows a sidebar on the left with 'Files' and 'Shared Files' sections. The main area is titled 'Files' and shows the path '/ (Home)'. A table lists files with columns for checkboxes, a settings icon, and a 'Name' column. A folder named 'drop_files' is highlighted with a red circle.

3. Click Upload, and choose your fully-completed Contracting Paperwork file (must be a PDF).

The interface is similar to the previous one, but the path is now '/ (Home) > drop_files'. The 'Name' column is empty, and a message states 'This directory is empty.' The 'Upload' button, represented by an upward arrow icon, is circled in red.

4. A green message will appear at the bottom of the screen confirming successful upload.

A green horizontal bar at the bottom of the screen contains the text 'Upload Complete' followed by a blue link 'Show Details'.

For questions related to uploading Contracting Paperwork to the FTP site, or via any of the above methods, please email producercontracting@brightbenefits.com or contact your BrightBenefits representative.



Contracting Cover Sheet

National Guardian Life Insurance Company (NGL)
Mailing Address: 123 Town Square Place • PMB 749 • Jersey City, NJ 07310
Phone 800.988.0826 • Fax 608.443.5042 • www.nglic.com

Date: _____ TPA: _____

Executed Contract Attached? ☐ Yes ☐ No

Appointments Needed: ☐ Agent ☐ Agency ☐ Both

States to be appointed in: _____

Contact Info for follow up and welcomes:

Name: _____

Email: _____

Phone Number: _____

Additional Notes:

Agent Contracting Checklist

Please return all of the following items, completed in full, to the Contracting Department at NGL (contracting@nglic.com). Information should be typed or printed legibly. Missing items will delay the contracting and appointment process.

1. **Individual Agent or Agency (Business Entity)** should submit the following completed forms:

- ☐ Contracting Cover Sheet
- ☐ Contracting Questionnaire
- ☐ Agent/Agency Agreement
- ☐ Business Associate Agreement
- ☐ General Authorization and Release
- ☐ Fair Credit Reporting Act Consumer Disclosure
- ☐ W-9 Request for Taxpayer Identification Number and Certification
- ☐ Copies of license(s)
- ☐ Proof of criminal background check ☐ Request for NGL to perform criminal background check, if applicable

2. **Agent Affiliated with an Agency (Business Entity)** should submit the following completed forms:

- ☐ Contracting Cover Sheet
- ☐ Contracting Questionnaire
- ☐ General Authorization and Release
- ☐ Fair Credit Reporting Act Consumer Disclosure
- ☐ Copies of license(s)
- ☐ Proof of criminal background check ☐ Request for NGL to perform criminal background check, if applicable

Pre-Appointment States

Please Note: Agents in the following states will need to be appointed prior to solicitation of business for NGL.

- | | |
|-------------------------------------|---------------------------------------|
| <input type="checkbox"/> Georgia | <input type="checkbox"/> Pennsylvania |
| <input type="checkbox"/> Montana | <input type="checkbox"/> Washington |
| <input type="checkbox"/> New Mexico | <input type="checkbox"/> Wisconsin |

REMINDER for Contracts:

If **Agency (Business Entity)** contract or **independent Agent** contract is submitted, the documents listed in item 1 above should be sent.

If **Agent affiliated with an Agency (Business Entity)** contract is submitted, the documents listed in item 2 above should be sent.



Contracting Questionnaire

Authorized Representative/Agency/Agent



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Agents and Agencies are not permitted to solicit, sell or procure an application for insurance until they possess an insurance agent's license and authorization. Omission of any information below will delay authorization and payment of commissions.

NAME OF AUTHORIZED REPRESENTATIVE / AGENCY / AGENT		SSN		DOB
COMPANY NAME		TAX ID NUMBER		
BUSINESS ADDRESS	CITY	STATE	ZIP CODE	PHONE
RESIDENTIAL ADDRESS (P.O. Box)	CITY	STATE	ZIP CODE	FAX #
CONTACT NAME		EMAIL ADDRESS		PHONE
PRINT NAMES AND TITLES OF ALL OFFICERS:				
ADDITIONAL STATE APPOINTMENTS				
COMMISSION PAYMENTS PAID TO: AGENT AGENCY (Please select one)				
BACKGROUND: (Please explain, include dates, and "yes" answers on a separate sheet)				
Has Authorized Representative / Agency / Agent ever:				
been appointed by National Guardian Life Insurance Company?				<input type="checkbox"/> Yes <input type="checkbox"/> No
had a complaint filed against you with an Insurance Department? State?				<input type="checkbox"/> Yes <input type="checkbox"/> No
been refused a bond?				<input type="checkbox"/> Yes <input type="checkbox"/> No
been the subject of any investigation or proceeding by any insurance jurisdiction?				<input type="checkbox"/> Yes <input type="checkbox"/> No
had any agency contract or company appointment canceled for cause (e.g., misrepresentation, misappropriation, etc.)?				<input type="checkbox"/> Yes <input type="checkbox"/> No
been suspended, expelled, fined, barred, censured or otherwise disciplined or found to have violated any law or rule by any party in the insurance industry?				<input type="checkbox"/> Yes <input type="checkbox"/> No
been refused a license to sell insurance or membership in any insurance organization or had a license suspended or revoked for cause by any jurisdiction?				<input type="checkbox"/> Yes <input type="checkbox"/> No
withdrawn any application or surrendered any license to avoid any disciplinary action or the denial of a license?				<input type="checkbox"/> Yes <input type="checkbox"/> No
been convicted of or pleaded no contest to any felony or misdemeanor, except for traffic offenses? If yes, give complete information and attach copy of court order.				<input type="checkbox"/> Yes <input type="checkbox"/> No
have any criminal charges pending against you?				<input type="checkbox"/> Yes <input type="checkbox"/> No
gone through bankruptcy, had salary attached or had any liens or judgments outstanding against you?				<input type="checkbox"/> Yes <input type="checkbox"/> No
been named a party in any lawsuit?				<input type="checkbox"/> Yes <input type="checkbox"/> No
Are you presently indebted to any insurer or any insurance company or managing general agent?				<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you intend to sell insurance principally for the purpose of placing insurance on risks owned or controlled by you, your employer or your family?				<input type="checkbox"/> Yes <input type="checkbox"/> No

of years Authorized Representative / Agency / Agent has been in business? _____

of years Agency / Agent has been at present address? _____

CERTIFICATION / AUTHORIZATION - I certify that I have answered all questions honestly and to the best of my knowledge.

DATE _____ **SIGNATURE OF AUTHORIZED REPRESENTATIVE / AGENT:** _____



Agent/Agency Agreement



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MADISON, WISCONSIN
("the Company" or "Us" or "Our" or "NGL")
HEREBY APPOINTS

Agent / Authorized Representative
("You" or "Your")

Name of Agent / Agency
("You" or "Your")

City and State

IT IS AGREED AS FOLLOWS:

1. You are authorized to solicit and procure applications as long as you possess an insurance agent's license, an appointment and authorization from NGL for such policies described in the most recent schedules then in effect as may be issued by the Company and collect the full initial premiums thereon. All such premiums shall be paid promptly to the Company not subject to any offset by You and not to be commingled with Your personal or Agency funds.
2. You have no authority to make, alter or discharge any policy agreement, or extend the time of payment of any premium by more than fifteen (15) days; or waive any policy condition; or guarantee any dividend; or deliver any policy unless the insured is, to the best of the Agency's knowledge without investigation at that time in good health and insurable condition; or endorse checks payable to the Company; or collect any premium except the initial premium on policies issued hereunder; or make any outbound calls or send any outbound texts or faxes for the purpose of marketing Our products, unless You are in complete compliance with all applicable federal or state laws, regulations and do-not-call lists, including but not limited to the Telephone Consumer Protection Act of 1991. Notwithstanding the foregoing, You may not send any mass or automated text messages, or make any outbound calls using an automated telephone dialing device or use prerecorded or artificial voice messages on Our behalf.
3. You agree to conduct yourself in accordance with the rules, instructions and regulations of the Company provided to you prior to the effective date and the insurance laws and regulations of the state in which You solicit applications for the Company. If Your license is suspended, revoked or not renewed by any state, Your right to solicit business on our behalf in that state will be suspended until such time as Your license is reinstated or renewed.
4. From the Company's and Your standpoint, You are an independent contractor. Nothing contained in this agreement or in any course of dealing between the Writing Agent and the Company whether in the past or currently shall be construed or interpreted to create an employer-employee relationship between the Company and the Agency. You have no obligation hereunder to solicit applications for the Company, and You are free to exercise Your own judgement as to the persons from whom applications are solicited, and the companies with which You will place such insurance. The Company shall bear none of the expenses of conducting Your business under this appointment.
5. **Compensation.**
 - The commissions provided for herein, which are subject to change at any time upon a fifteen (15) day written notice to You as to policies bearing Effective Dates subsequent to such notice, shall be payable to You, Your executors, administrators or assigns, except that no assignment of commissions accrued or to accrue shall be binding upon the Company without its written consent. If this Agreement terminates because of the dissolution of the Agency, no commissions shall be payable hereunder subsequent to the date of dissolution.
 - Commissions paid by the Third Party Administrator to You shall constitute full compensation for Your services performed in accordance with this Agreement. You are responsible for all expenses incurred by You in performance of this Agreement. If the individual, employer or group is terminated for any reason, the fee payable to You will be adjusted to reflect same.
 - You shall be entitled to a commission for so long as You remain the broker of record and this agreement is in force. If an individual, employer or group solicited by You provides us with notification of a change of its broker of record, Your entitlement to fees with respect to such individual, employer or group shall terminate at the close of business on the effective date of the change designating another broker of record.
 - At any time while this agreement is in effect, or after it is terminated, the Agency shall forfeit and shall not be entitled to receive any commissions or service fees due or to become due under this agreement, if the Agency shall:
 - a. Violate any of the provisions of this agreement, or
 - b. Shall neglect to report and pay over to the Company any premium collected by the Agency or sub-producer(s), or
 - c. Shall at any time during the term of this Agreement and, for six (6) months thereafter, endeavor to induce through a means other than general advertising in the normal course of business, or shall induce any employee, producer or representative of the Company with whom you have worked during your Agency capacity hereunder to discontinue their association with the Company, or

- d. Shall endeavor to induce or shall induce any policyholder of the Company to relinquish a policy with the Company. Notwithstanding the foregoing, Agent shall not be prohibited from recommending to policyholder(s) various insurance products from other insurance carriers.
- If the Company shall return the premiums on a policy or any portion of such premiums or cancel a policy for any cause, You shall refund to the Company on demand the amount of commissions received on the premiums so returned. This provision shall survive termination of this agreement.
6. **Underwriting.** The Company reserves the right at its sole option to decline any application for coverage, to refuse to renew any coverage, to withdraw any policy or contract form, or to return directly to covered persons or applicants any payments submitted to the Company without liability to the Agency. This provision survives termination of this agreement.
7. **Indebtedness.**
 1. Any advance, loan, or extension of credit which the Agent / Agency at any time and in any manner may secure from the Company hereunder shall constitute indebtedness to the Company. If any check or draft of the Agent / Agency used to transfer monies to the Company is dishonored upon presentation for payment, the amount thereof shall constitute an indebtedness of the Agent / Agency to the Company.
 2. **Provisions Relating to Indebtedness.**
 - a. The entire indebtedness owed to the Company by the Agent / Agency may be deemed due and payable in full by the Company at any time.
 - b. The Agent / Agency shall be responsible for any costs, including reasonable attorney fees and other collection expenses, incurred by the Company in connection with the recovery from the Agent / Agency of any indebtedness of the Agent / Agency to the Company provided, the Company obtains any recovery whatsoever and irrespective of the outcome of any counterclaim, crossclaim or other legal action by the Agent / Agency.
 - c. The Agent / Agency hereby grants to the Company the right to offset all commissions becoming due hereunder against any indebtedness of the Agent / Agency to the Company; and the Company may at any time after giving Agent / Agency fifteen (15) calendar days notice of the indebtedness and Agent / Agency the right to cure, apply commissions payable to the Agent / Agency hereunder or any other monies payable to the Agent / Agency by the Company or by any company controlled by or under common contract with the Company to reduce any such outstanding indebtedness.
 - d. The Company shall be responsible for any costs, including reasonable attorney fees and other collection expenses incurred by the Agent / Agency in connection with the recovery from the Company of any indebtedness of the Company to the Agent / Agency providing the Agent / Agency obtains any recovery whatsoever and irrespective of the outcome of any counterclaim, crossclaim or other legal action by the Company.
8. **Advertising.** You have no authority to advertise using the Company name, products, premium rates, or other related information unless the advertisement is pre-approved in writing through the Company's advertising review process.
9. **Privacy.** You agree that all nonpublic personal financial information or nonpublic personal health information related to any insured or policyholder or to any consumer or customer (as such terms are defined under applicable state or federal privacy laws) of Us or any of Our affiliated companies, obtained by You in the performance of Your duties and obligations under this Agreement shall be held in the strictest confidence by You, Your producers and Employees. You shall not disclose or use such information except as necessary to carry out Your duties and obligations under this Agreement or as otherwise required under applicable state or federal law. This provision survives termination of this Agreement. The Company agrees that all nonpublic personal financial information or nonpublic personal health information related to any insured or policyholder or to any consumer or customer (as such terms are defined under applicable state or federal privacy laws) of You or any of Your affiliated companies obtained by Us in the performance of Our duties and obligations under this Agreement shall be held in the strictest confidence by Us, our producers and employees. The Company shall not disclose or use such information except as necessary to carry out Our duties and obligations under this Agreement or as otherwise required under applicable state or federal law. This provision survives termination of this Agreement.
10. **Termination.** In addition to the methods otherwise herein provided, this agreement may be terminated by either party hereto, by notice in writing of the election to terminate delivered personally or mailed certified to the other party at the last known address. Said termination shall be effective ten (10) calendar days after the date shown on such termination notice or as state regulation dictates. After the termination date, commissions which would otherwise be subsequently earned shall no longer be due. Upon the death of the Agent or dissolution of the Agency, this agreement shall terminate and any monies which are then earned and to which the Agent would have been entitled at the time of his death or dissolution of Agency shall be paid, as the premiums are paid to the Company on behalf of the Agent / Agency, to whomsoever shall be legally entitled thereto. Such monies will be held by the Company without interest or penalty until lawful determination is accepted by the Company as to the recipient of the monies. Term for Cause. This agreement shall be terminated for cause immediately by written notice to the other party.

11. **Term for Cause.** This agreement shall be terminated for cause immediately by written notice to the other party.
12. **Territory.** The territory in which You are licensed to represent us is not exclusively assigned to You and we have the right to enter into similar arrangements with others and You have the same right.
13. **Audit of Agency, Records and Supplies.** All books, accounts and records of the Agent / Agency related to the business of the Company hereunder shall be subject to audit and inspection by the Company or its duly authorized representative during normal business hours and the Company will provide reasonable notice to the Agent / Agency, including a reasonable period of time after termination hereof. Notwithstanding the foregoing, any examination of the Agent's / Agency's books, accounts, records shall be conducted in a manner reasonably designed to protect the confidentiality of the Agent's / Agency's trade secrets and confidential information. The Company may at any time make copies of or take extracts from such books, accounts, paper documents and records as it may deem necessary and as it relates to the business of the Company. All records maintained by the Agent / Agency hereunder and all books, rate manuals, forms, and other supplies furnished to the Agency by the Company shall be and remain the property of the Company and shall be returned to the Company promptly following termination hereof. This item applies only to the business of the Company.
14. **Legal Proceedings.** The parties hereto consent, to the extent permitted by law, that jurisdiction and venue for the enforcement or interpretation of this agreement is Madison, Wisconsin. The parties herewith further agree that the law of the State of Wisconsin shall apply to enforcement, construction, and interpretation of this agreement. Any document that has been served upon You in connection with any legal proceedings involving us must be transmitted to the Home Office by registered mail promptly and as soon as reasonably practicable after receipt. You will be liable to us for any reasonable loss or expense we incur resulting from Your failure to reasonably comply with this requirement to promptly transmit documents received in connection with any legal proceeding. You hereby represent, and agree that this Agreement is contingent on Your continuing representation, that You have not been convicted, and to the best of Your knowledge that none of Your producers or employees who place insurance under this Agreement have ever been convicted, of any state or federal felony involving dishonesty or a breach of trust or any crime under 18 U.S.C. § 1033. You agree to notify us immediately in writing of any charges or actions relating to the placement of insurance that are known to You and brought in any court or by any regulatory body against You, Your producers or employees (who provide insurance or act under this Agreement) and of any felony conviction(s) of You, Your producers or employees (who provide insurance or act under this Agreement) that are known to You and relate to the placement of insurance. Failure to comply with any of the provisions of this section shall be cause for immediate termination of this Agreement.
15. **Prior Contracts Superseded.** This Agreement shall supersede any and all prior Contracts between the parties hereto, whether written or oral, regarding the services of the Agency performed for the Company with respect to such products. This Agreement and its attachments constitute the entire agreement between the parties hereto and are subject to termination by either party upon written notice to the other party. All previous agreements are void and replaced by this agreement.
16. **Additional Provisions.** Our failure to insist upon strict performance of any provisions in this Agreement will not be construed as a waiver of such provisions. This Agreement is not binding on You unless signed by You and is not binding on Us unless signed by one of Our authorized officers.
17. **Hold Harmless.** Each party to this Agreement will indemnify and hold harmless the other party from and against any and all claims, losses and expenses, including without limitation reasonable attorney fees and costs of defense that such other party incurs as a result of the first party's error, faulty action or omission or breach of this Agreement.

18. Subject to approval by the Company, this Agreement shall take effect on the ____ day of _____, _____.

Approval:

I accept this appointment subject to the terms and conditions herein provided.

**BRIGHTBENEFITS, A DIVISION OF NATIONAL
GUARDIAN LIFE INSURANCE COMPANY**

Agent / Agency Name

By _____
Danny L. Bentley
Executive Vice President

Authorized Representative / Agent Signature

Social Security No. _____



Business Associate Agreement



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This Business Associate Agreement (the “**Agreement**”) effective as of _____, 20____ (“**Effective Date**”), is entered into by and between BrightBenefits, a division of National Guardian Life Insurance Company (“**Covered Entity**”), and _____ (“**Business Associate**”) (collectively, “**the Parties**”).

RECITALS

WHEREAS, the purpose of this Agreement is to comply with the requirements of the Health Insurance Portability and Accountability Act of 1996, as heretofore or hereafter amended (“HIPAA”), and associated regulations 45 C.F.R. Parts 160 - 164, as heretofore or hereafter amended (the “Privacy and Security Rules”);

WHEREAS, the Parties have heretofore entered into, or may hereafter enter into, one or more agreements or arrangements whereby Business Associate shall or may provide certain services to Covered Entity, and pursuant to such agreements or arrangement(s), Business Associate may be considered a “business associate” of Covered Entity as defined in the Privacy and Security Rules; and

WHEREAS, Business Associate may have access to Protected Health Information (as defined below) in fulfilling its responsibilities under such agreements or arrangement(s);

NOW, THEREFORE, in consideration of the Parties continuing obligations under this Agreement, compliance with HIPAA and the Privacy Security Rules, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree to the provisions of this Agreement in order to address the requirements of the Privacy and Security Rules and to protect the interests of both Parties.

SECTION 1. INTERPRETATION; DEFINITIONS

1.1 Interpretation. In the event of an inconsistency between the provisions of this Agreement and the provisions of the Privacy and Security Rules, the Privacy and Security Rules shall control. Where provisions of this Agreement are different than those mandated by the Privacy and Security Rules, but are nonetheless permitted by the Privacy and Security Rules, the provisions of this Agreement shall control. Any ambiguity in this Agreement shall be resolved to permit Covered Entity to comply with the Privacy and Security Rules.

1.2 Definitions. Any and all capitalized terms in this Agreement shall have the definitions ascribed to them herein. Whenever the context so requires, the gender of all words used in this Agreement includes the masculine, feminine, and neuter, and the singular shall include the plural, and conversely.

1.2.1 Electronic Protected Health Information (EPHI) means individually identifiable health information that is transmitted by electronic media, maintained in electronic media; or transmitted or maintained in any other form or medium.

1.2.2 Electronic Storage Media is defined as memory devices in computers (hard drives) and any removable/transportable digital memory medium such as magnetic tape or disk, optical disk, or digital memory card.

1.2.3 Individual shall have the same meaning as the term “Individual” in 45 CFR §160.103, as amended, and shall include a person who qualifies as a personal representative in accordance with 45 CFR §164.502(g).

1.2.4 Protected Health Information shall have the same meaning as the term “Protected Health Information” in 45 CFR §160.103, as amended, limited to the information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity.

1.2.5 Required By Law shall have the same meaning as the term “Required By Law” in 45 CFR §164.103, as amended.

1.2.6 Secretary shall mean the Secretary of the United States Department of Health and Human Services or his/her designee.

1.2.7 Transmission Media shall mean media used to exchange information already in electronic storage media. Transmission media include, for example, the internet (wide-open), extranet (using internet technology to link a business with information accessible only to collaborating parties), leased lines, dial-up lines, private networks, and the physical movement of removable/transportable electronic storage media.

SECTION 2. SERVICES

Pursuant to its current or future agreement(s) or arrangement(s) with Covered Entity, Business Associate shall or may provide services which may involve the use and/or disclosure of Protected Health Information. Except as otherwise specified herein, Business Associate may make any and all uses of Protected Health Information necessary to perform its obligations under its arrangement(s) and agreement(s) with Covered Entity.

SECTION 3. RESPONSIBILITIES OF BUSINESS ASSOCIATE

3.1 Responsibilities of Business Associate. With regard to its use and/or disclosure of Protected Health Information, the Business Associate hereby agrees to the following:

3.1.1 Not to use or disclose Protected Health Information except as permitted or required by this Agreement or as Required By Law;

3.1.2 To use appropriate safeguards to maintain the security of the Protected Health Information and to prevent unauthorized use and/or disclosure of the Protected Health Information;

3.1.3 To report to the designated privacy officer of Covered Entity, in writing, any use and/or disclosure of the Protected Health Information that is not permitted, required by this Agreement, or Required By Law, of which Business Associate becomes aware, including breaches of unsecured Protected Health Information as required at 45 CFR 164.410, and any security incident of which it becomes aware, within ten (10) days of Business Associate's discovery of such unauthorized use and/or disclosure;

3.1.4 To mitigate, to the extent practicable, any harmful effect that is known to Business Associate of a use or disclosure of the Protected Health Information by Business Associate in violation of this Agreement;

3.1.5 To require all of its employees, representatives, subcontractors, and agents that create, receive, maintain, transmit or otherwise have access to the Protected Health Information under this Agreement to agree in writing to adhere to the same restrictions and conditions on the use and/or disclosure of the Protected Health Information that apply herein;

3.1.6 Upon written request, to make available during normal business hours at Business Associate's offices, within ten (10) calendar days of such request, all books, records, and agreements, including policies and procedures, relating to the use and disclosure of the Protected Health Information to Covered Entity for purposes of enabling Covered Entity to determine Business Associate's compliance with the terms of this Agreement;

3.1.7 Upon written request, to make available all books, records, and agreements, including policies and procedures, relating to the use and disclosure of the Protected Health Information to the Secretary in a time and manner designated by the Secretary for the purposes of determining compliance with HIPAA and the Privacy and Security Rules;

3.1.8 To document any disclosures of the Protected Health Information and information related to such disclosures as would be required for Covered Entity to respond to a request by an Individual for an accounting of disclosures of the Protected Health Information in accordance with 45 CFR §164.528; and

3.1.9 To provide to Covered Entity or an Individual, in the time and manner designated by Covered Entity, information collected in accordance with this Agreement to permit Covered Entity to respond to a request by an Individual for an accounting of disclosures of the Protected Health Information in accordance with 45 CFR §164.528.

3.2 Responsibilities of Business Associate. With regard to its use and/or disclosure of Electronic Protected Health Information (EPHI), the Business Associate hereby agrees to the following:

3.2.1 Implement each "Required" administrative, physical, and technical safeguard that reasonably and appropriately protects the confidentiality, integrity, and availability of the EPHI that it creates, receives, maintains, or transmits on behalf of Covered Entity as required by the security regulations 45 CFR 164.302 through 45 CFR 164.318 or as later amended;

3.2.2 Ensure that any agent, including a subcontractor, to whom Business Associate provides EPHI, agrees to implement reasonable and appropriate safeguards to protect such EPHI;

3.2.3 Report to Covered Entity in writing any EPHI that the Business Associate creates, receives, maintains or transmits on behalf of Covered Entity that is not permitted or required by the Agreement within 15 days of the Business Associate's discovery;

3.2.4 For each standard that is "Addressable," Business Associate must either implement the specification, or document why implementing the specification is not reasonable and implement an equivalent alternative measure.

SECTION 4. PERMITTED USES AND DISCLOSURES BY BUSINESS ASSOCIATE

4.1 **Permitted Uses and Disclosures by Business Associate.** With regard to the use and disclosure of Protected Health Information, Business Associate agrees to the following:

4.1.1 Business Associate may only use or disclose Protected Health Information as necessary to perform the services set forth in agreement with Covered Entity;

4.1.2 Business Associate may use or disclose Protected Health Information as required by law;

4.1.3 Business Associate agrees to make uses and disclosures and requests for Protected Health Information consistent with Covered Entity's minimum necessary policies and procedures;

4.1.4 Business Associate may not use or disclose Protected Health Information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity; and

4.1.5 Business Associate may use or disclose Protected Health Information in order to provide data aggregation services relating to health care operations of Covered Entity.

SECTION 5. OBLIGATIONS OF COVERED ENTITY

5.1 **Obligations of Covered Entity.** With regard to the use and/or disclosure of the Protected Health Information by Business Associate, Covered Entity hereby agrees to the following:

5.1.1 To notify Business Associate of any changes in the form of notice of privacy practices that Covered Entity provides to Individuals pursuant to 45 C.F.R. §164.520 and to provide Business Associate with a copy of the notice currently in use;

5.1.2 To notify Business Associate of any changes, restrictions, or revocation of, permission by Individuals to use or disclose the Protected Health Information, to the extent that such changes may affect Business Associate's use or disclosure of the Protected Health Information;

5.1.3 To notify Business Associate of any restriction on the use or disclosure of Protected Health Information that Covered Entity has agreed to or is required to abide by under 45 C.F.R. §164.522, to the extent that such restriction may affect Business Associate's use or disclosure of Protected Health Information;

5.1.4 Not to request Business Associate to use or disclose the Protected Health Information in any manner that would not be permissible under the Privacy and Security Rules if done by Covered Entity; and

5.1.5 Upon receiving notification from Business Associate concerning a breach of unsecured Protected Health Information, Covered Entity shall proceed with providing all required regulatory and consumer notifications.

SECTION 6. TERM AND TERMINATION

6.1 **Term.** The term of this Agreement shall commence as of the Effective Date and shall continue until all of the Protected Health Information provided by Covered Entity to Business Associate, or created or received by Business Associate on behalf of Covered Entity, is destroyed or returned to Covered Entity, or, if it is unfeasible for Business Associate to return or destroy the Protected Health Information, protections are extended to such information by Business Associate, in accordance with the termination provisions of this Agreement.

6.2 **Termination by Covered Entity.** Upon a material breach by Business Associate of any of its obligations hereunder, it shall immediately provide notice thereof to Covered Entity, and Covered Entity shall:

6.2.1 Provide an opportunity for Business Associate to cure the breach or end the violation within a time period which Covered Entity determines is reasonable under the circumstances, terminate this Agreement if Business Associate does not cure the breach or end the violation within the time specified by Covered Entity; or

6.2.2 Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and a cure by Business Associate of such breach is not possible; or

6.2.3 If neither termination nor cure is feasible, Covered Entity shall report the violation to the Secretary.

6.3 Termination by Business Associate. If Business Associate determines that a material condition of performance has changed under this Agreement, or that Covered Entity has violated the terms of this Agreement, Business Associate may provide thirty (30) days prior written notice to Covered Entity of its intention to terminate this Agreement. Business Associate agrees to cooperate with Covered Entity to reach a mutually satisfactory solution to the matter prior to terminating this Agreement and this Agreement shall terminate only if such a solution is not reached.

6.4 Effect of Termination.

6.4.1 Except as provided in Section 6.4.2, upon termination of this Agreement for any reason, Business Associate shall promptly return or destroy all the Protected Health Information received from Covered Entity, or created or received by Business Associate on behalf of Covered Entity. This provision shall apply to the Protected Health Information that is in the possession or under the control of subcontractors or agents of Business Associate. Neither Business Associate, nor its subcontractors or agents, shall retain copies of the Protected Health Information; or

6.4.2 In the event that the return or destruction of the Protected Health Information is unfeasible, Business Associate shall promptly provide to Covered Entity notification of the conditions that, in its view, make return or destruction unfeasible. Subject to Covered Entity's agreement therewith, Business Associate shall extend the protections of this Agreement to such Protected Health Information and limit further uses and disclosures of such Protected Health Information to those purposes that make the return or destruction unfeasible, for so long as Business Associate, its subcontractors or agents, maintain such Protected Health Information. All obligations of Business Associate under Section 3 shall continue as long as such Protected Health Information is maintained by Business Associate and its subcontractors or agents.

6.4.3 Business Associate's obligations under this Section 6.4 shall survive the termination of this Agreement indefinitely.

6.4.4 Should this Agreement be terminated for cause by Covered Entity, such termination shall be considered a material default by Business Associate under any underlying agreement between it and Covered Entity and shall entitle Covered Entity to terminate that agreement.

SECTION 7. MISCELLANEOUS

7.1 No Third Party Beneficiaries. Nothing express or implied in this Agreement is intended to confer, nor shall anything herein confer, upon any person other than the Parties hereto any rights, remedies, obligations, or liabilities whatsoever.

7.2 Amendment. This Agreement may not be modified or amended, except in writing signed by each Party. The Parties agree to take such action as is necessary to amend this Agreement from time to time as is necessary for Covered Entity to comply with the requirements of HIPAA and the Privacy and Security Rules.

7.3 Survival. The respective rights and obligations of Business Associate under this Agreement shall survive the termination of this Agreement.

7.4 Assistance in Litigation or Administrative Proceedings. Business Associate shall make itself, and any employees, subcontractors, or agents assisting Business Associate in the performance of its obligations under this Agreement and those agreements and arrangements described in Section 2, available to Covered Entity, at no cost to Covered Entity, to testify, be deposed, or otherwise assist Covered Entity and its counsel in the event of litigation or administrative proceedings commenced against Covered Entity, its officers, directors, and employees, based upon a claimed violation of HIPAA, the Privacy and Security Rules, or other laws relating to security and/or privacy, except where Business Associate or its employee, subcontractor, or agent is named as an adverse party in the proceeding. The provisions of this Section shall survive the termination of this Agreement indefinitely.

7.5 Indemnification. Business Associate agrees to indemnify Covered Entity, its assignees and licensees, and hold each of them harmless from and against any and all claims, demands, losses, damages, liabilities, costs, and expenses, including legal fees, arising out of or by reason of any breach or alleged breach by Business Associate, its employees, subcontractors, or agents, of any of its obligations under this Agreement.

7.6 Notices. All notices required under this Agreement shall be deemed to have been properly served if delivered in writing personally, by recognized overnight delivery services (such as Federal Express), by facsimile (confirmed by telephone), or by U.S. registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

If to Covered Entity:

BrightBenefits, a division of National
Guardian Life Insurance Company
Two East Gilman Street
P.O. Box 1191
Madison, Wisconsin 53701-1191
Attention: General Counsel
Telephone: 608.257.5611
Fax: 608.257.4282

With a copy to:

BrightBenefits
100 Winners Circle, Suite 220
Brentwood, TN 37027
Attention: President
Telephone: 629.224.0181
Fax: 877.737.0518

If to Business Associate:

Telephone: _____

Fax: _____

or such other place or places as either Party, by notice given in accordance with this Section, may designate in writing from time to time. All notices shall be effective upon receipt by the Party to be notified.

7.7 Governing Law. This Agreement shall be governed under the laws of the State of Wisconsin.

7.8 Recitals. The RECITALS set forth hereinabove are incorporated herein in their entirety.

7.9 Counterpart Execution. This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall together constitute one and the same instrument. For purposes hereof, facsimile copies hereof and facsimile signatures hereof shall be authorized and deemed effective.

7.10 Entire Agreement. This Agreement sets forth the entire agreement of the Parties hereto with respect to the subject matter hereof and supersedes all prior discussions and agreements, written or oral, with respect thereto.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the day and year written above.

“COVERED ENTITY”

“BUSINESS ASSOCIATE”

BRIGHTBENEFITS, A DIVISION OF NATIONAL
GUARDIAN LIFE INSURANCE COMPANY

By: _____
Danny L. Bentley
Executive Vice President

By: _____
Name: _____
Title: _____



General Authorization and Release



BrightBenefits, a division of National Guardian Life Insurance Company (NGL) • 100 Winners Circle, Ste 220 • Brentwood, TN 37027
Phone (629) 224-0181 • Fax (877) 737-0518 • Email producercontracting@brightbenefits.com • www.brightbenefits.com

I hereby authorize BrightBenefits, a division of National Guardian Life Insurance Company (NGL), to contact any past employer, business associate, business partner, military service, court, law enforcement agency, insurance company, financial institution, or any other person or entity to obtain information about my background, employment, schooling, business activities and experience, character, criminal record, or financial status.

I hereby authorize any of the above persons, institutions, or entities to provide the above information to NGL and waive and release any claims I may have related to the providing of such information. I also authorize them to rely on a photocopy or facsimile copy of this authorization.

I also acknowledge that NGL may participate in programs which provide background and financial information on insurance agencies, agents or producers, including debit balances. I authorize NGL to obtain information about me personally and/or my entity (if applicable) from these programs and to share any information obtained from other sources with these programs. I also waive and release any claims I may have related to the sharing of such information by NGL or the programs in which NGL participates.

This authorization is continuing and remains in effect until revoked by me in writing delivered to an officer of NGL.

Signature: _____ Date: _____



Fair Credit Reporting Act Consumer Disclosure



BrightBenefits, a division of National Guardian Life Insurance Company (NGL) • 100 Winners Circle, Ste 220 • Brentwood, TN 37027
Phone (629) 224-0181 • Fax (877) 737-0518 • Email producercontracting@brightbenefits.com • www.brightbenefits.com

Obtaining a “Consumer Report” NGL¹, when making a decision to offer you a producer Agreement or to continue an Agreement, may obtain and use a “consumer report” from a “consumer reporting agency.” These terms are defined in the Fair Credit Reporting Act as amended, 15, U.S.C. § 1681 et seq. (“FCRA”).

A “consumer reporting agency” is defined in the FCRA as a person or business that for monetary fees, dues, or in a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to others.

A “consumer report” is defined by the FCRA as including any written, oral or other communication of any information by a “consumer reporting agency” bearing on a consumer’s credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in employment-related decisions affecting a consumer.

As an Agent / Agency with an interest in a relationship as a producer with NGL, you are a “consumer” with rights under the FCRA. If NGL obtains a “consumer report” about you and if NGL considers any information in the consumer report when making a decision that adversely affects you, you will be provided with a copy of the “consumer report” before the decision becomes final. You may also contact the Federal Trade Commission about your rights under the FCRA.

Signature of Authorize Representative / Agent: _____

Date: _____

¹ For purposes of this Authorization and Release, NGL includes BrightBenefits, a division of National Guardian Life Insurance Company, its related companies and their agents.

BrightBenefits, a division of National Guardian Life Insurance Company c/o

Company Name: _____

Address: _____

City/ST/Zip: _____

Phone: _____

**Request for Taxpayer
Identification Number and Certification**

Go to 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.

Print or type. See Specific Instructions on page 3.	1 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.)	
	2 Business name/disregarded entity name, if different from above.	
	3a Check the appropriate box for federal tax classification of the entity/individual whose name is entered on line 1. Check only one 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) Note: 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) _____	4 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) _____ (Applies to accounts maintained outside the United States.)
	3b 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"/>	
	5 Address (number, street, and apt. or suite no.). See instructions.	Requester's name and address (optional)
	6 City, state, and ZIP code	
	7 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.

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.

Social security number												
				-				-				
or												
Employer identification number												

Part II Certification

Under penalties of perjury, I certify that:

- 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
- 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
- I am a U.S. citizen or other U.S. person (defined below); and
- 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.

Sign Here	Signature of U.S. person	Date

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.

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 ¹	Generally, exempt payees 1 through 5. ²
• Payments made in settlement of payment card or third-party network transactions	Exempt payees 1 through 4.

¹ See Form 1099-MISC, Miscellaneous Information, and its instructions.

² 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. 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. Go to 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 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 ¹
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 ²
5. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law	The actual owner ¹
6. Sole proprietorship or disregarded entity owned by an individual	The owner ³
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 ⁴
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

¹ 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.

² Circle the minor's name and furnish the minor's SSN.

³ 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.

⁴ 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. 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 or report them at www.ftc.gov/complaint. You can contact the FTC at www.ftc.gov/idtheft or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see www.IdentityTheft.gov and Pub. 5027.

Go to 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.



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