

中国保险行业协会标准

T/IAC 11—2017

人寿巨灾超赔再保险合同规范

Specification for life catastrophe excess of loss reinsurance treaty

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前 言

本标准按照 GB/T 1.1—2009 给出的规则起草。

本标准由中国保险行业协会提出并归口。

本标准起草单位：中国人寿再保险有限责任公司、瑞士再保险股份有限公司北京分公司、慕尼黑再保险公司北京分公司、中国再保险(集团)股份有限公司、中国平安人寿保险股份有限公司、中国太平洋人寿保险股份有限公司、泰康人寿保险有限责任公司。

本标准主要起草人：周俊、刘文骥、熊小云、苟丹、何淑仪、吴晶、王璐璐、关恒业、贾晶晶、夏心怡、胡文琦、翟丽娟、杨易、姚希、寇梦晨。

人寿巨灾超赔再保险合同规范

1 范围

本标准规定了人寿巨灾超赔再保险合同基本要求和合同构成。

本标准适用于人寿巨灾超赔再保险业务的开展与管理。

2 规范性引用文件

下列文件对于本文件的应用是必不可少的。凡是注日期的引用文件,仅注日期的版本适用于本文件。凡是不注日期的引用文件,其最新版本(包括所有的修改单)适用于本文件。

JR/T 0032—2015 保险术语

3 术语和定义

JR/T 0032—2015 界定的术语和定义适用于本文件。

4 基本要求

4.1 人寿巨灾再保险合同的订立、生效、履行、变更和转让、权利义务终止和违约责任等,应严格遵守《中华人民共和国合同法》的规定,并应遵循合同内容所涉及的我国其他有关法律、法规、规章等规范性文件;

4.2 人寿再保险合同的订立和履行应遵循平等、自愿、公平、诚实信用、协商一致的原则,尊重社会公德,维护经济秩序,保护社会公共利益;

4.3 人寿再保险合同应采用书面形式,以合同书的形式订立。

5 合同构成

5.1 基本构成

人寿巨灾超赔再保险合同包括约首部分、主文部分、约尾部分。

人寿巨灾超赔再保险合同范本见附录 A、附录 B。

注:本标准仅给出一般条款的范本,特殊条款根据实际业务进行约定。

5.2 约首部分

约首部分应明确、完整地列出以下信息:

- a) 合同名称;
- b) 合同所有签订方名称。

5.3 主文部分

5.3.1 基本约定

确定合同主体、合同法律关系、合同框架。

5.3.2 主要义务条款

分别对分入公司和分出公司的主要义务进行约定,其中:

- a) 分入公司主要义务包括参与份额、理赔、账单与结算、保密;
- b) 分出公司主要义务包括分出责任、再保险费、理赔、账单与结算、分入公司审查权、保密。

5.3.3 合同生效和期限

确定合同的生效日期及终止条件。

5.3.4 合同适用的业务范围

确定合同仅适用于分出公司在特殊条款中约定直接承保的保单责任,分出公司通过与其他公司合并、再保或购买保单等行为而获得的任何保单或责任,都不能自动适用于合同条款。

5.3.5 巨灾定义

确定合同项下保单的“巨灾”范围。

注:“巨灾定义”部分为合同可选要素。

5.3.6 除外责任

确定合同项下保单的除外责任的范围。

5.3.7 分出责任

确定分出公司在合同业务范围内应分出的所有保单或责任。

5.3.8 分入责任

确定分入公司在合同业务范围内应承担的所有赔付责任。

5.3.9 参与份额

确定分入公司在合同下接受分出公司分出的责任。

注:“参与份额”部分为合同可选要素。

5.3.10 再保险费

确定再保险费的计算方式。

5.3.11 再保险手续费

确定再保险手续费的计算方式。

5.3.12 理赔

确定分出公司和分入公司再保险理赔的操作方式。

5.3.13 账单报表及结算

确定分出公司应按合同约定定期向分入公司提供再保险业务账单和报表,并约定了再保账单的处理流程。

5.3.14 抵销

确定分出公司和分入公司债权债务抵销的情形。

5.3.15 费用

确定分出公司和分入公司在合同下所产生费用及成本的分担。

5.3.16 错误与遗漏

确定分出公司和分入公司在合同下的权利或义务,在约定条件下不会因再保险业务管理中的任何非故意的遗漏或错误而受到影响。

5.3.17 货币和汇率

确定合同下的计价币种及适用汇率。

5.3.18 分入公司审查权

确定分入公司对合同下再保险业务有关资料进行审查的权利。

5.3.19 数据保证

分出公司应向分入公司保证其所提供的所有信息的真实性,完整性和准确性,同时保证分出公司没有对分入公司隐瞒任何重要事实或者情况。

5.3.20 最大诚信原则

合同双方承诺以最大诚信为原则处理与合同有关的所有事宜。

5.3.21 条款独立和弃权

当合同任何条款整体或部分在法律上无效或不可执行时,剩余的其他条款将继续有效。任何一方未能或延迟行使合同约定的任何权利,不应被视为放弃该权利。

5.3.22 保密

确定分出公司和分入公司的保密义务。

5.3.23 数据保护

确定分出公司和分入公司对个人数据保护的义务。

注:“数据保护”部分为合同可选要素。

5.3.24 违约责任

确定合同一方未履行合同主要义务时,合同另一方有获得补偿以及使相关保单免受未履行义务一方所造成的损失的权利。

5.3.25 反洗钱和反商业贿赂

确定分出公司和分入公司反洗钱和反商业贿赂的义务。

5.3.26 制裁责任除外

确定涉及国际、国内制裁时分入公司的责任免除。

5.3.27 仲裁条款

确定合同的争议适用仲裁解决,确定了仲裁机构及仲裁地。

5.3.28 法律适用条款

确定了合同适用中华人民共和国法律。

5.3.29 合同的修订和终止

确定合同的修订和终止条件。

5.3.30 陈述和保证

确定分出公司和分入公司陈述和保证的义务。

5.3.31 语言文字

合同使用的语言为中文和英文。若英文合同与中文合同不一致的,则以中文合同为准,除非特殊条款中另有约定。

5.3.32 术语定义

对合同下部分术语进行了解释。

5.4 约尾部分

合同约尾部分应:

- 明确约定合同成立时间;
- 包含合同各签订方授权代表签字及公章;
- 明示合同份数、签订日期和地点。

附 录 A
(规范性附录)
人寿巨灾超赔再保险合同范本

人寿巨灾超赔再保险合同范本如下：

＜_____人寿巨灾超赔再保险合同＞

本合同由

＜公司名称＞,＜城市＞,＜国家＞
(以下简称“分出公司”)

与

＜公司名称＞,＜城市＞,＜国家＞
(以下简称“分入公司”)

共同签订。

一般条款

A.1 基本约定

A.1.1 本合同(以下简称“合同”)由分出公司为一方与分入公司为另一方共同签订。

A.1.2 本合同由一般条款、特殊条款(包括特殊条款中列明的附录)、书面补充协议共同构成,代表了分出公司和分入公司之间在本合同下的再保业务的全部约定。其中,本合同相关的特殊条款和附件都以书面形式附于本合同并构成本合同的组成部分。

A.1.3 如果本合同中的一般条款与特殊条款有不一致之处,则特殊条款将优先于一般条款。

A.1.4 所有纳入本合同业务范围内的保单责任,分出公司和分入公司均应严格按照一般条款和特殊条款所列明的条件进行分出和分入。

A.1.5 本合同的法律关系仅限于分出公司和分入公司之间。分入公司依据本合同所接受的分入业务,并不构成它与分出保单的被保险人、受益人或者其他任何第三方有任何法律关系。

A.1.6 本合同的缔约双方具有丰富的专业经验,均已审阅过本合同并充分了解其条款及含义。因此双方同意,本合同的解释将不考虑合同的起草方,且不含有对任何一方有利的推断或解释规则。

A.1.7 除在本合同中另有明确说明外,本合同代表分出公司与分入公司之间的完整协议,并取代双方之前就本合同事宜达成的任何口头或书面协议。除本合同以外,双方之间没有任何可能影响本合同内容的口头约定或理解。

A.2 主要义务条款

本合同双方应履行的主要义务概括如下。

A.2.1 分入公司的主要义务

分入公司的主要义务如下:第 9 条参与份额、第 12 条理赔、第 13 条账单与结算。

A.2.2 分出公司的主要义务

分出公司的主要义务如下:第 7 条分出责任、第 10 条再保险费、第 12 条理赔、第 13 条账单与结算、第 18 条分入公司审查权。

A.3 合同生效和期限

A.3.1 本合同自特殊条款中注明的日期起生效。

A.3.2 除非特殊条款另有约定,本合同终止日期不定,本合同将一直有效,但是可以因合同中第 29 条所描述的情况而终止。

A.4 合同适用的业务范围

A.4.1 本合同仅适用于分出公司在特殊条款中约定直接承保的保单责任。该业务必须是经分出公司同意接受的、在特殊条款中列明的责任范围内的直接承保业务。

A.4.2 分出公司通过与其他公司合并、再保或购买保单等行为而获得的任何保单或责任,都不能自动

适用于本合同条款。但是,若经双方事前书面同意,这些保单或责任则可以纳入本合同的业务范围。

A.4.3 分入公司承担由特殊条款中列明的巨灾事件所造成的分出公司的损失(分入公司对应的部分)。

A.4.4 本合同只保障分出公司自留业务的最终净损失,分入公司仅就特殊条款列明的“分出公司自留额”部分内的损失承担赔偿责任。

A.4.5 本合同不包括业务见特殊条款。

A.5 巨灾定义

A.5.1 本合同项下的“巨灾”是指由同一“巨灾事件”所引起的、外来的、突发的、非本意的、非疾病的、造成被保险人死亡和伤残,且死亡和伤残人数不少于“N”的客观事件。数字“N”在特殊条款中列明。在确定是否达到“最少死亡和伤残人数”之计算时,只有在同一巨灾事件中引起的死亡和伤残被保险人才被计算在内,且如死亡和伤残被保险人应根据第6条除外责任排除在外,则该被保险人不被计算在内。

A.5.2 所谓同一“巨灾事件”所导致的损失是指由一次自然灾害(如暴风、飓风、龙卷风、台风、旋风、地震、海啸、潮汐、火山爆发等)、食物中毒(需由国家省级以上卫生检疫部门认定)等意外事故在以_____千米为半径的范围内、连续_____小时内发生的直接损失。

A.5.3 巨灾事件发生后,分出公司有权选择所规定的巨灾事件_____小时的起始时间,但起始时间不得早于应由分出公司承担责任的巨灾事件所造成的第一次损失的发生时间,且不同的损失计算期间不能重叠。分出公司有权选择所规定的巨灾事件_____千米半径所适用的区域,且不同的损失计算区域不能重叠。

A.5.4 如果本合同终止时,一个巨灾事件正在发生,则分入公司应承担赔偿责任,将整个巨灾事件视作在合同终止之前发生的。分入公司承担责任的先决条件是该巨灾事件造成的损失不会依据续保合同提出索赔。

A.5.5 分入公司承担自巨灾事件发生之日起_____天内、由该巨灾事件直接导致的意外死亡和意外伤残责任。该巨灾事件必须发生在本合同有效期内,且分出公司需在自巨灾事件发生之日起的_____年内将由此巨灾事件直接导致的损失通知分入公司。

A.5.6 本合同所谓“意外死亡责任”是指因遭受外来的、突发的、非本意的、非疾病的,使身体受到伤害的客观事件所造成的死亡给付。

A.5.7 本合同所谓“意外伤残责任”是指因遭受外来的、突发的、非本意的、非疾病的,使身体受到伤害的客观事件所造成的、符合中国保险监督管理委员会发布的《人身保险伤残评定标准及代码》中规定的残疾状况。

A.5.8 本合同所谓“损失”是指“最终净损失”,即所有应由分出公司承担的并扣减法定最低责任准备金/保险监督机构认可的精算假设计算和方法的责任准备金以后的赔付。(可选)任何从其他再保险人或第三方摊回的赔款或从政府部门获得的补贴同样应予以扣除。法定最低责任准备金/保险监督机构认可的精算假设和方法计算的责任准备金应由分出公司根据保险监督机构认可的精算假设和方法计算的责任准备金,并在损失报告中予以扣减。对于任何涉及定期支付的伤残索赔,会按原保险单条件以分期付款的方式进行支付。对于任何涉及此类定期支付的残疾索赔,分入公司应按原保险单条件按比例分摊定期支付。

A.5.9 对于分出公司做出的通融赔付决定,只有事先得到分入公司的书面认可,分入公司才承担责任。分入公司不承担因分出公司自身原因造成的合同规定以外的损失,比如惩罚性损失、不良诚信造成的损失或补偿性损失。

注:上述条款可选。

A.6 除外责任

本合同的除外责任,包括原保单的除外责任及特殊条款约定的除外责任。

A.7 分出责任

在每一巨灾事件中,分出公司应根据特殊条款中的约定承担“最终净损失”中“每一事件免赔额”。

A.8 分入责任

A.8.1 在每一巨灾事件中,分入公司应根据特殊条款中的约定,对分出公司选择的损失(即“最终净损失”)中超出分出公司“每一事件免赔额”的损失部分承担赔付责任,且分入公司承担的赔付责任以“每一事件责任限额”为限,且不得超过“每年责任限额”。

A.8.2 合同年度开始时,“每一事件责任限额”和“每年责任限额”分别等于特殊条款中所列明的“每一事件最大责任限额”和“每年最大责任限额”。如发生巨灾事件,自巨灾事件发生时起,“每一事件责任限额”和“每年责任限额”将按该事件赔付的金额分别自动扣减。如果在合同期间内发生多次巨灾事件,每次巨灾事件均按上述约定处理。

A.8.3 参加本合同的分出公司和分入公司之间的关系是分别的,而非连带的,即每一个参加本合同的分入公司只对其自己的参与份额负责,而不对其他分入公司的参与份额负责。

A.8.4 每一被保险人之最大责任。

注: A.8.4 可选。

A.9 参与份额

分出公司同意按本合同特殊条款中约定的份额向分入公司分出所有本合同适用范围内的保单。

注: 上述条款可选。

A.10 再保险费

A.10.1 分出公司应按本合同特殊条款中的约定向分入公司支付再保险费,再保险费按照特殊条款中列明的方法计算。

A.10.2 分出公司应在每一合同年度初向分入公司支付特殊条款中规定的年初预付再保险费。

A.10.3 每一合同年度的再保险费不低于特殊条款中约定的年度最低净再保费。

A.10.4 如该合同年度最终的再保险费高于年初预付再保险费,其差额应在该合同年度结束时进行调整。

A.11 责任恢复

A.11.1 [模式 1]如发生巨灾事件,分出公司自动恢复每一事件责任限额,但分入公司的累计责任不能超过特殊条款中列明的“每年最大责任限额”。本合同允许的“自动责任恢复次数”在特殊条款中约定。

A.11.2 [模式 2]如发生巨灾事件,分出公司可以选择时点免费恢复每一事件责任限额,但分入公司的累计责任不能超过特殊条款中列明的“每年最大责任限额”。本合同允许的“免费责任恢复次数”在特殊

条款中约定。

A.11.3 分出公司可以按特殊条款约定的方法自动付费恢复每一事件责任限额,但分入公司的累计责任不能超过特殊条款中列明的“每年最大责任限额”。本合同允许的“付费责任恢复次数”和“付费责任恢复再保费计算方法”在特殊条款中约定。

注:采用以上模式之一。

A.12 理赔

A.12.1 巨灾事件发生后,分出公司应及时书面通知分入公司,并告知巨灾事件所造成损失程度。分出公司应向分入公司提供与赔付有关的全部资料。

A.12.2 分出公司在职责范围内应尽可能地避免或减少损失。

A.12.3 对于处理理赔案中所发生的诉讼、仲裁或特殊调查费用,分出公司应事先通知分入公司。分入公司有权决定是否参与上述诉讼、仲裁或特殊调查。除非事先得到分入公司的书面同意,否则分入公司不承担分出公司在调查和完成理赔中发生的日常业务费用。经分入公司事先书面确认,分入公司应当合理地分担分出公司就本合同项下的再保险风险的保单合同责任针对特定的索赔进行调查、调整、调解或辩护而发生的任何特别理赔费用。“特别理赔费用”包括私人调查员费用、法律费用和任何必要的诉讼费用。“特别理赔费用”不包括为获取医疗报告所支付的费用、分出公司的办公费用及其员工的薪资(包括任何理赔的外勤处理所发生的费用)。

注: A.12.3 可选。

A.12.4 合同规定以外的赔偿金:分入公司不承担在合同约定以外应由分出公司支付的各种赔偿金,例如罚金、欺诈赔偿金或补偿金。但在某些情况下,分入公司可以分担分出公司在合同约定以外的赔偿金。这些情况一般是指分入公司积极参与,并指示、同意或批准了最终导致赔偿金的行为、疏漏或做法。当前述情况发生时,分入公司应合理分摊有关赔偿金。

A.12.5 根据分出公司的要求,分入公司应在与分出公司确认赔付金额后的____天内将其应负责的理赔金额支付给分出公司。

A.12.6 分入公司有权保留要求审核理赔个案并且定明分出公司需提供准确和全面的理赔文件。如分出公司违反此义务,分入公司有权拒赔。

A.13 账单报表及结算

A.13.1 在合同结束后____天内,分出公司应向分入公司提供再保账单和报表。

巨灾再保报表中应包括以下信息:

- 1) 本合同项下业务的年初和年末自留风险保额;
- 2) 本合同项下业务的自留原始保费;
- 3) 本合同项下业务总的被保险人人数;
- 4) 再保险费金额;
- 5) 再保险理赔保单的明细信息。

具体账单信息的格式及内容参见附录。

A.13.2 分入公司应根据报表信息核对账单信息并于____天内确认或提出异议,并在双方账单确认后的____天内完成结付。

A.13.3 如分入公司对再保账单提出异议,分出公司应在____个工作日内反馈。对账单中不存在异议的余额部分,分出公司应立即支付给分入公司。一旦异议部分被澄清,应付款方应立即将差额支付给应收款方。

A.13.4 如本合同的任何一方未能在合同年度结束后____天内付清所有款项之余额,另一方有权根据特殊条款中的规定收取利息。利息的计算期间自合同年度结束后____天后开始,至款项最后结清时止。

A.13.5 对于因任何原因终止本合同下的新业务及已生效业务,分出公司应该准备一份包括由双方在本合同下产生的所有账单项目的最终账单(详见合同特殊条款的约定)。本合同中关于币种、汇率、账单确认、账单余额支付的约定也同样适用于最终账单。

A.14 抵销

合同双方之间任何已清算或未清算、已到期及或法律允许范围内的未到期的应支付的债权或债务,只要它们已经产生或已经发生,不论分出公司还是分入公司作为债权人或债务人,只要合同双方互为债权债务,债权债务抵销后余额将被认可并进行给付。

A.15 费用

A.15.1 除非在本合同中其他地方另有说明,任何一方不承担对方在其经营过程中产生的任何费用或成本。

A.15.2 分入公司不承担依照任何法律规定向分出公司征收的任何税金、消费税、增值税、关税、代扣所得税、管理费、强制收费或类似义务。

A.15.3 在没有限制一般性的情况下,所有邮寄费用和其他类似费用都由寄送方承担。

A.16 错误与遗漏

A.16.1 任何一方在本合同项下的权利或义务,不会因再保险业务管理中的任何非故意的遗漏或错误而受到影响,但前提是这种因疏忽而导致的遗漏或错误一经发现应当立即予以纠正。如果双方已恢复到犹如该等非故意的遗漏或错误从未发生的状况,则视为已做出纠正。

A.16.2 如果因任何遗漏或错误而使另一方构成实际经济损失,则另一方可向造成该等遗漏或错误的一方追讨赔偿。

A.17 货币和汇率

A.17.1 除特殊条款另有约定外,本合同中所列财务项目均以保单的原始币种计价,并以保单的原始币种进行结付。若结算币种非原保单币种,则应按应付款项到期日的汇率进行转换,付款方应承担因延迟付款产生的汇率风险。

A.17.2 如果特殊条款约定的相关限额所使用的币种不同于本合同项下保单或责任的结算币种,则应按照特殊条款约定的汇率将该等限额转换成交易币种。应按照特殊条款的约定对上述汇率进行复核。

A.17.3 关于汇率具体参见特殊条款的约定。

A.18 分入公司审查权

A.18.1 分出公司应保留所有承保文件,包括电子版和纸质版文件。分出公司停止将相关风险分给分入公司之后,上述文件的最短保存时间按本合同特殊条款中约定的时间执行。如果分出公司未能将上述承保文件保留至最短保存时间,分入公司有权追溯拒绝参与保单并且分出公司需返还任何数量的已

付赔款,除非分出公司能够按照分入公司的要求重新获得所有有关的承保信息。

A.18.2 若分入公司提出审查要求,分入公司应提前 5 个工作日书面通知分出公司,分出公司应向分入公司提供所有与本合同项下再保险业务有关的资料。即使在紧急情况下分入公司也应至少提前 48 小时书面通知分出公司。在任何正常工作时间内,分入公司或其代表可检查任何与本合同项下再保险业务相关的文件,其费用由分入公司承担。

A.18.3 即使在本合同终止后,只要双方之间的责任与义务没有终止,分入公司仍有上述权利。

A.19 数据保证

A.19.1 分出公司承认在本合同生效之前以任何形式提供给分入公司的信息,将影响分入公司决定是否签订该合同。分出公司也承认在本合同生效后此信息以及后续提供的信息,将影响分入公司决定是否以及在何种条件下继续参与本合同。

A.19.2 分出公司应当向分入公司保证其所提供的所有信息的真实性,完整性和准确性,同时保证分出公司没有对分入公司隐瞒任何重要事实或者情况。事实或者情况的重要性取决于是否影响分入公司提供再保险服务给分出公司的决定,以及在何种条件下提供或继续提供再保险服务,或者是否继续提供再保险服务。

A.19.3 若分出公司未履行本条第 1 款和第 2 款中约定的义务,无论提供任何补偿,分入公司均有权拒绝履行本合同的义务。

A.20 最大诚信原则

本合同由双方本着最大诚信原则订立,合同双方承诺以最大诚信为原则处理与本合同有关的所有事宜。

A.21 条款独立和弃权

A.21.1 如果本合同任何条款整体或部分在法律上无效或不可执行,剩余的其他条款将继续有效。在此情况下,应对无效或不可执行的本合同条款部分予以修订或补充,使其符合原合同目的。

A.21.2 任何一方未能或延迟行使本合同约定的任何权利,不应被视为放弃该权利。

A.22 保密

A.22.1 未经另一方事先书面同意,本合同的任何一方不得复制或以任何形式公布或披露与本合同条款相关的任何信息给本合同之外的任何人。

A.22.2 本约定并不禁止将与本合同相关的信息披露给监管部门、法院、合同双方的专业顾问或分入公司的转分保接受人。此外,任何一方也应有权将与本合同相关的信息披露给其关联公司或专业顾问、咨询机构、第三方管理者、审计部门或机构,但上述信息的接受者也均必须遵守本条约定的保密义务。

A.22.3 本合同的保密义务不因本合同的终止而终止,而其保密义务将持续有效至合同终止日起____年为止。

A.23 数据保护

为符合数据保护法律在个人数据处理方面的规定,双方承诺,保证遵守该等法律规定。尤其是,在

不违背前述一般性规定的情况下,出于自身遵守法律和本合同的目的,在与分入公司从事临时分保业务时,分出公司保证其已经且承诺将继续从其保单客户处取得所有必要的许可。双方保证将根据适用的数据保护法律规定,在传输有关数据的过程中只使用(经双方一致同意的)安全的流程和系统。

注:上述条款可选。

A.24 违约责任

A.24.1 若合同一方,无论是故意还是非故意的,未履行在本合同中第2条中约定的主要义务,除可按照本合同第29条第2款中的约定终止合同,合同另一方有获得补偿以及使相关保单免受未履行义务一方所造成的损失的权利。该项权利可对于因对方未履行义务而导致的任何索赔,费用或预期利润减少进行全面追溯。

A.24.2 该项补偿将会使得受损一方的财物状况达到假设该项义务被履行情况下的水平,在确定赔偿水平时,可考虑在违约行为未发生的情况下应适用的合理且适当的分保条件。对赔偿水平或任何行动存在争议的,应根据第27条的约定提请仲裁解决。本条不影响任何一方根据本合同条款享有的任何其他权利或救济。而且,如果分出公司故意隐瞒或不如实告知相关信息或数据,且可以证明一个审慎且专业的分入公司在获知真相后会拒绝为有关分出业务提供再保险保障,则分入公司有权自始撤销该分保业务。在此情况下,分出公司和分入公司之间就有关分保业务的所有已付款项须按中国人民银行公布的一年期存款年利率计息返还,且分入公司对该分保业务不承担任何责任。

A.25 反洗钱和反商业贿赂

A.25.1 为遵守有关反洗钱的法律法规,双方承诺,为本合同的目的,确保己方已经制定并将一直保留所有必要的反洗钱制度和流程。

A.25.2 分出公司和分入公司承认并同意:

- 1) 禁止一切商业贿赂行为;
- 2) 已经实施并要求所有公司代表或雇员严格执行其组织内的相关规则。

如果分出公司或分入公司意识到与合同有关的活动已经或可能违反了适用的反商业贿赂法律或法规,在适用法律允许的范围内,应立即通知另一方。

A.26 制裁责任除外

如果承保、支付该赔偿或提供该保险金将使分入公司面临任何联合国决议或适用于该分入公司的任何司法管辖区的贸易或经济制裁制度、法律法规项下的制裁、禁令或限制,则该分入公司不得被视为承保且该分入公司无承担该项下支付任何赔偿或提供任何保险金的责任。

A.27 仲裁条款

A.27.1 凡因本合同引起的或与本合同有关的任何争议,应由双方协商解决。若双方不能达成一致,应提交中国国际经济贸易仲裁委员会(或 中国国际经济贸易仲裁委员会_____分会),按照申请仲裁时该会现行有效的仲裁规则进行仲裁。仲裁语言为中文,仲裁地点为中国<某市>(可选)。

A.27.2 仲裁裁决是终局的,对双方均有约束力。

A.27.3 双方同意将争议提交给仲裁进行裁决作为双方解决争议的唯一方法。

A.28 法律适用条款

除非在特殊条款中另有约定,本合同适用于中华人民共和国法律。

A.29 合同的修订和终止

A.29.1 双方同意的对本合同的任何修改都要适时地以书面补充协议的形式附加于本合同,且补充协议应由双方共同签署。该补充协议将成为合同的组成部分并且具有同等约束力。

A.29.2 合同双方均有权终止本合同之新签发保单业务,但须至少提前三个月书面通知对方。在通知期内,分入公司应根据本合同条款约定继续参与新签发保单业务的再保险。分入公司对于终止日期前本合同项下所有保单的再保险责任应当继续有效,直至[相关保单期满为止/相关保单下一续保日为止,而保单的续保日指保单周年日]。分入公司不再承担终止日期后本合同项下新签发保单的再保险责任。

A.29.3 关于结清终止约定如下,赎回费用的约定详见特殊条款的约定。

- a) 若分出公司未按本合同约定支付再保险费,分入公司有权提前____个月通知分出公司结清终止本合同。结清终止后分入公司不再承担任何责任。
- b) 对于再保险费率非保证的分保业务,分入公司有权提前三个月通知分出公司进行费率调整,调整后的再保险费率由双方协商确定。如____个月协商期内双方未能就再保险费率调整达成一致,分入公司有权要求于三个月通知期满日结清终止未达成一致意见的业务。结清终止后分入公司不再承担有关未达成一致意见业务的任何责任。
- c) 在下列情况下,合同任何一方均有权在通知对方后立即终止本合同:
 - 1) 由于法律环境变化或另一方出现经营状况严重恶化或出现保监会监管规定中规定的偿付能力不足的情形,导致合同无法执行或合同目的不能实现;
 - 2) 合同另一方与其关联公司以外之其他公司合并或它的所有权或控制权转让至其关联公司以外之其他公司;
 - 3) 合同另一方损失了其全部或部分实收资本金;
 - 4) 合同另一方没有履行合同约定的责任或严重违反合同并且在收到无过错方有关通知____日内没能更正;
 - 5) 合同在法律上或事实上已经无法履行,合同的任何一方均有权立即终止本合同;或者
 - 6) 合同另一方破产清算或被吊销了保险或再保险本合同业务范围内业务经营执照或业务经营许可证。

如果本合同以本条所述的任何情况(包括合同一方所在国或总部之国家发生战争、军事行动、暴乱或武装叛乱)被终止,本合同项下的一切业务将停止分出,采用结清终止的方式。自本合同终止日起,对于分出公司的所有新承保业务及有效业务,分入公司均不承担任何责任。

d) 满足其他在特殊条款中约定的合同终止条件时,本合同终止。

A.29.4 根据本合同要求发出的通知,应以书面形式(信函、传真、电子邮件等)发至对方在本合同中注明的地址。通知自送达对方时生效,除非有证据证明其已提前收到,否则:

- 1) 在派专人交付的情况下,通知于送至双方指定的地址之时视为送达;
- 2) 在通过邮资预付的挂号邮件邮寄的情况下,通知于邮寄后十个工作日视为送达;
- 3) 通过快递的情况下,通知于接收快递人员签字确认之时视为送达;
- 4) 在通过航空邮件邮寄的情况下,通知于邮寄后五个工作日视为送达;
- 5) 在以传真发送的情况下,通知于发件人传真机记录传输确认时视为送达。

- 6) 在以电子邮件发送的情况下,通知到达受送达人特定系统的日期为送达日期。

A.30 陈述和保证

A.30.1 分出公司陈述和保证如下:

- 1) 分出公司是一家依照法定住所地法律设立并正常存续的企业;以及
- 2) 分出公司在适用法律的授权下,在公司章程范围内,有能力签订本协议并履行其所指的职责;以及
- 3) 分出公司已完成所有约定的内部程序以准许其签订本合同并承担其所指的职责;以及
- 4) 在其管理之下无人在其权限范围内违反任何当地用于监管保险的管理和服务的法律和法规;以及
- 5) 分出公司已经取得所有政策法规的许可,从而可以分出本合同项下的保单,并且已提取这些分出业务项下各种准备金;以及
- 6) 作为分入公司尽职调查过程的一部分,分出公司已向分入公司提供了某些数据。此数据是完整的,而且准确地描述了目前分出公司和符合本合同再保条件的保单的财务状况。

A.30.2 分入公司的陈述和保证如下:

- 1) 分入公司是一家依照法定住所地法律设立并正常存续的企业;以及
- 2) 分入公司依照中华人民共和国法律被准予经营再保险业务的营业执照,并完全合法;以及
- 3) 分入公司在适用法律的授权下,在公司章程范围内,有能力签订本合同并履行其所指的职责;以及
- 4) 分入公司已完成所有规定的内部程序以准许其签订本合同并履行其所指的职责。

A.31 语言文字

本合同以双语(英文及中文)写成,具有同等法律效力。若英文合同与中文合同不一致的,则以中文合同为准,除非特殊条款中另有约定。

A.32 术语定义

最终净损失:是指在巨灾损失中所有应由分出公司承担的在扣除其他再保摊回之后的净风险保额的累积额。风险保额是指保险金额或其现值(如果发生保险事故时保险金不是立即全额付讫)与保单下该责任精算准备金或现金价值(按照中国保险监督管理委员会的规定计算)之间的差额。上述现值的计算须遵循分出公司相应的精算计算标准。

(签署页)

本合同一式_____份,作为文件凭证,由双方各自法定代表人或授权代表人在下列时间和地点签署并且开始成立。

_____人寿保险有限公司

法定代表人或授权代表人:

在 于 年 月 日

_____再保险有限公司

法定代表人或授权代表人:

在 于 年 月 日

附 录 B
(规范性附录)

人寿巨灾超赔再保险合同范本(英文版)

人寿巨灾超赔再保险合同英文版范本如下:

<Life Catastrophe Excess of Loss Reinsurance Treaty>

Entered into between

<Company Name>, <City>, <Country>
(the Company)

and

<Reinsurer Name>, <City>, <Country>
(the Reinsurer)

Jointly signed.

General Conditions

B.1 Basic Agreement

B.1.1 This Treaty (hereinafter referred to as “Treaty”) is made and entered into by and between the Company of one part and the Reinsurer of the other party.

B.1.2 It is hereby declared and agreed that these General Conditions, the following Special Conditions (including the appendices listed in the Special Conditions) and the written amendment constitute the entire Treaty between the Parties. And related terms in the Special Conditions and attachments shall all attached to this Treaty in written and be a part of this Treaty.

B.1.3 In the event of any discrepancy between the General Conditions and the Special Conditions, the Special Conditions shall prevail.

B.1.4 The Company agrees to cede and the Reinsurer agrees to accept the policies or benefits falling within the scope of this Treaty upon the terms set out in these General Conditions and the Special Conditions.

B.1.5 This is a Treaty solely between the Company and the Reinsurer. The acceptance of reinsurance under this Treaty shall not create any right or legal relationship between the Reinsurer and the policyholder, the insured, the beneficiary, or any other party to any policy of the Company which may be reinsured under this Treaty.

B.1.6 This Treaty is between sophisticated parties, each of which has reviewed this Treaty and is fully aware and informed about its terms and conditions and implications thereof. The parties therefore agree that this Treaty shall be construed without regard to the authorship of the language and without any presumption or rule of construction in favor of either party.

B.1.7 Save as expressly addressed elsewhere in this Treaty, it represents the entire Treaty between the Company and the Reinsurer and supersedes, with respects to its subject matter, any prior oral or written Treaty between the parties.

B.2 Articles on Main Obligations

The main obligations of the parties under this Treaty are summarized as follows.

B.2.1 Main Obligations of the Reinsurer

The main obligations of the Reinsurer are as follows: Article 9 Participation Sum, Article 10 Reinsurance Premium, Article 12 Claims Handling, Article 13 Statement of Account, Bordereaux and Settlements.

B.2.2 Main Obligations of the Company

The main obligations of the Company are as follows: Article 7 Liability for the Company, Article 10 Reinsurance Premium, Article 12 Claims, Article 13 Statement of Account, Bordereaux and Settlements, Article 18 The Right of Inspection of the Reinsurer.

B.3 Commencement and Duration

B.3.1 This Treaty shall take effect on the date when the Treaty is executed by both parties.

B.3.2 Unless specified in the Special Conditions, this Treaty shall remain effective for an indefinite period, but may be cancelled in accordance with the provisions set forth in Article 29 of this Treaty.

B.4 Scope

B.4.1 This Treaty is applicable to the insurance business which the Company covers directly specified in the Special Conditions. The business shall be a direct underwriting business within the scope of responsibility specified in the Special Conditions by the consent of the Company.

B.4.2 Any policies acquired by the Company through reinsurance or the purchase of another company's policies or through merger with or acquisition of another company shall not be automatically included under the scope of this Treaty.

B.4.3 The Reinsurance shall be liable for the loss of the Company caused by the catastrophe listed in the Special Conditions (the corresponding parts of the Reinsurance).

B.4.4 The Treaty shall only ensure the final net loss of the Company's own business, and the Reinsurance shall be liable for the losses incurred in the part of the Company's self-retention amount specified in the Special Conditions.

B.4.5 Business which has not covered in this Treaty can be specified in Special Conditions.

B.5 The Definition of Catastrophe

B.5.1 "Catastrophe" under this Treaty means caused by the same "catastrophe event", exotic, sudden, not original intention, not the disease, caused the death and the insured, and death and the residual number of not less than the objective events of "N". Number of "N" shall be specified in the Special Conditions. In determining whether to "all the death, or at least the number of the residual" calculation, only in the same catastrophe event caused death and disability all insured people counted, and such as death and bodily injury(ies) all insurant should be excluded out of responsibility, in accordance with clause ____, the insurant is not counted.

B.5.2 The loss caused by the same "catastrophe event" is referred to that causes by a natural disaster (such as storms, tornados, typhoon, storm, earthquake, tsunami, tidal, volcanic eruptions, etc.), food poisoning (need determined by the state of health and quarantine departments at or above the provincial level) such as an accident within the scope of the radius is ____ km, continuous direct losses occurred within ____ hours.

B.5.3 After catastrophe event happened, the Company have the right to choose the starting time of ____ hours of the catastrophe event, but the starting time shall not be earlier than the time of the first loss occurred which is caused by the catastrophe event and belong to the responsibilities of the Company, and the different loss calculation period shall not be overlapped. The Company has the right to choose the area where ____ kilometers radius is applicable for the specified catastrophe event and calculation area of different loss shall not overlap.

B.5.4 If a catastrophe event happened on time of the expiration of this Treaty, the Company shall be

liable and regard the whole catastrophe event as it is happened before the Treaty ended. The precondition for the Reinsurance to take responsibility refers to the loss caused by this catastrophe event will not be claimed according to the renewal Treaty.

B.5.5 The Reinsurance shall be liable for accidental death and disability responsibility directly caused by this catastrophe which is also happened within ____ days since the date of the catastrophe event. This catastrophe event shall happened in the scope of the valid period of the Treaty and the Company need to notify the Reinsurance about the loss directly caused by this catastrophe event in X years since the catastrophe event happened.

B.5.6 “Accidental death responsibility” in this Treaty is defined as a death payment caused by an objective event leads to bodily injury which is external, sudden, unintentional, non-disease.

B.5.7 “Accidental disability responsibility” under this Treaty is defined as disability stipulated in <Assessment Criteria and Codes for Injuries and Disability In Personal Insurance> issued by the China Insurance Regulatory Commission and as a result of bodily injury caused by extra, sudden, involuntary, non-disease incidents.

B.5.8 The “Loss” in this Treaty means “ULTIMATE NET LOSS” which is the payment to be rendered by the Company for its own account less the attributable actuarial reserves, including extra expenses, such as lawsuit, arbitration and special investigation expenses, occurring in course of claim settlement other than overhead expenses and human resource expenses of the Company. (Optional) Payments from other reinsurers or third parties or any reduction resulting from subsidies granted to the Company by governmental authorities are also to be deducted. Actuarial reserves are to be calculated according to the accounting and actuarial standards applied by the Company when drawing up the financial statements.

B.5.9 The Reinsurer is solely liable for the Company’s decision on ex-gratia which has retained the written approval of the Reinsurer in advance. The Reinsurer shall not be liable for the loss caused by the Company, such as penalty loss, loss of bad faith, or compensatory loss.

Note: The above term is optional.

B.6 Exclusion

The exclusions of this Treaty is be defined in the Special Conditions.

B.7 The Company’s Liability

In every catastrophe event, the Company shall take responsibility of “deductible sum of every event” in the “final net loss” in accordance of the stipulation in the Special Conditions.

B.8 The Reinsurer’s Liability

B.8.1 For each Catastrophe Event, the Company should cover the Ultimate Net Loss in excess of the Priority Per Event as specified in the Special Conditions. The liability of the Reinsurer limits to the Maximum Indemnity Per Event and Maximum Indemnity Per Contract Year.

B.8.2 The liability of the Reinsurer per event and per contract year should equal to, respectively, the Maximum Indemnity Per Event and Maximum Indemnity Per Contract Year as specified in the Special

Conditions at the contract year start. If Catastrophe Event happens, the liability of the Reinsurer per event and per contract year will deduct automatically according to the Catastrophe Event's payment amounts. If several Catastrophe Events happen during the contract, each one shall be subject to the aforesaid provisions.

B.8.3 The relationship of the Company and the Reinsurer is not related, and it means each Reinsurer is only responsible for its own share and not for other Reinsurer's share.

B.8.4 Maximum liability of per the Reinsurer.

Note: B.8.4 is optional.

B.9 Participation Sum

The Company agreed to subdivide all policies within the scope of the Treaty in accordance with the shares agreed in the appendix to this Treaty.

Note: The above term is optional.

B.10 Reinsurance Premium

B.10.1 The Company shall pay the reinsurance premium to the Reinsurer in accordance with the stipulations specified in the Special Conditions of this Treaty, and calculated by the method specified in the Special Conditions.

B.10.2 The Company shall prepay the reinsurance premium specified in the Special Conditions to the Reinsurer at the beginning of every Treaty year.

B.10.3 The reinsurance premium of each Treaty year shall not lower than the yearly net reinsurance premium minimum specified in the Special Conditions.

B.10.4 If the final reinsurance premium exceeds the reinsurance premium prepaid at the beginning of the year of this Treaty, the balance shall be adjusted at the end of this Treaty year.

B.11 Reinstatements

B.11.1 [Mode 1] If a catastrophe event has occurred, the Company could automatically reinstate the Liability Per Event, provided that the accumulated liability of the Reinsurer shall not exceed the "Maximum Liability Per Year" as specified in the Special Conditions. The "Number of Automatic Reinstatements" allowed under this Treaty is specified in the Special Conditions.

B.11.2 [Mode 2] If a catastrophe event has occurred, the Company could reinstate the Liability Per Event for free at a selected time point, provided that the accumulated liability of the Reinsurer shall not exceed the "Maximum Liability Per Year" as specified in the Special Conditions. The "Number of Free Reinstatements" allowed under this Treaty is specified in the Special Conditions.

B.11.3 The Company could reinstate the Liability Per Event for free or by payment of a reinsurance premium. However, the accumulated liability of the Reinsurer shall not exceed the "Maximum Liability Per Year" as specified in the Special Conditions. The "Number of Free Reinstatements" and the "Calculation Basis of Reinsurance Premium for Reinstatements" are specified in the Special Conditions.

Note: choose one of the modes above.

B.12 Claims

B.12.1 The Company must notify the Reinsurer in writing as soon as possible after an catastrophic event has occurred, and notify the Reinsurer the extent of loss arising from the catastrophic event. The Company must provide the Reinsurer with all information in relation to the claims.

B.12.2 The Company undertakes to do everything within its obligations to avoid or reduce losses.

B.12.3 The Company shall notify the Reinsurer in advance for any extra-ordinary claims expenses arising from litigation, arbitration or special investigation in the claims handling process. The Reinsurer has the right to decide whether to participate in any litigation, arbitration or special investigation. Unless there is any prior written agreement by the Reinsurer, the Reinsurer shall not be liable for any ordinary claims expenses incurred by the Company in the investigation or claims handling process. Provided that the Reinsurer agreed in writing in advance, the Reinsurer will share any extra-ordinary claims expenses in relation to the investigation, adjustment, settlement or contest of a specific claim under a policy which is reinsured under this Treaty in a reasonable manner. "Extra-ordinary claims expenses" include private investigator fees, legal expenses and any litigation fee that is necessary. "Extra-ordinary claims expenses" do not include any expenses incurred for obtaining medical report nor any office expense or salaries of the employees of the Company (including any expenses incurred due to field work done in claims handling process).

Note: B.12.3 is optional.

B.12.4 Extra-contractual damages: The Reinsurer is not liable for extra-contractual damages, such as punitive, bad faith or compensatory damages, which are levied against the Company. However, the Reinsurer recognizes that circumstances may arise under which it should contribute to the Company's liability for extra-contractual damages. Such circumstances are those situations in which the Reinsurer was an active party and directed, consented to or ratified the act, omission or course of conduct which ultimately resulted in the assessment of damages. In such situations, the Reinsurer shall contribute equitably to such damages.

B.12.5 Upon request of the Company, the Reinsurer shall pay claims which it is liable to the Company within X days after its confirmation with the Company on the claim amount.

B.12.6 The Reinsurer retains the right to review each claim and require the Company to provide claims documents accurately and in full. If the Company fails to comply with such obligation, the Reinsurer has the right to deny a claim.

B.13 Statement of Account, Bordereaux and Settlement

B.13.1 Within _____ days after the end of the contract period, the Company shall provide the statement of account and bordereaux to the Reinsurer.

The bordereaux for the catastrophic reinsurance should include the following information:

- 1) The total retained net sum at risk covered by this Treaty for the Company's own account both at the beginning of the contract year and at the end of the contract year;
- 2) The total gross net premium covered by this Treaty;
- 3) The total number of insured covered by this Treaty;
- 4) Amount of reinsurance premium;

5) Detailed information on claims covered.

Detailed format and requirements on statement of account and bordereau are specified in the Appendix.

B.13.2 The Reinsurer should check the statement of account according to the bordereaux information and confirm or raise objections within _____ days. Any balance due to the other party shall be paid to the other party within _____ days after confirmation of the statement of account by both parties.

B.13.3 Should the Reinsurer raise any objection to the statement of account, the Company should provide feedback within _____ working days. For any undisputed balance in the statement of account, the Company shall pay the balance to the Reinsurer immediately. As soon as the objections have been clarified, any difference in the balance due shall be paid immediately by the debtor.

B.13.4 If either party fails to settle any balance due within _____ days after the end of a contract year, the other party has the right to charge an interest according to the terms set out in the Special Conditions. Interest shall be charged from _____ days after the end of the contract period until the balance is fully paid.

B.13.5 Upon termination of this Treaty for new business and enforce business for whatever reasons, the Company shall submit a final statement of account regarding any accounting items arising from the Treaty between the parties (Detailed requirements refer to the Special Conditions). The provisions regarding currency, exchange rate, account confirmation and settlement of balance shall apply to the final statement of account in the same manner.

B.14 Offsetting

For any claim or liability that is due or not due and payable to the other party, regardless of whether the Company or the Reinsurer is the debtor or creditor and whether the party is liquidated or not, the claim or liability could be set off against each other and the net balance shall be settled between the parties, provided that such claim or liability has incurred and both parties are the creditor and debtors to each other for such claim or liability.

B.15 Expenses

B.15.1 Unless otherwise agreed elsewhere in this Treaty, either party shall not be liable for any expenses or costs incurred by the other party in its operations.

B.15.2 The Reinsurer shall not be liable for any tax, consumption tax, value-added tax, customs duty, withholding income tax, management fee, compulsory charge or any other similar obligations that are imposed on the Company according to any applicable laws.

B.15.3 In the absence of a general limitation, all mailing costs and other similar charges are borne by the sending party.

B.16 Errors and Omissions

B.16.1 The rights or liabilities of either party under this Treaty shall not be prejudiced in any way by any inadvertent omission or error which may arise in the administration of reinsurance business, provided that rectification is made by the party who is responsible for the inadvertent omission or error immediately upon discovery. Such inadvertent omission or error is considered as rectified if the parties

are reverted to the position as if such omission or error had not occurred.

B.16.2 If there is any actual economic loss incurred by the other party due to any omission or error, the other party has the right to claim remedies from the party causing such omission or error.

B.17 Currency and Exchange Rate

B.17.1 Unless otherwise specified in the Special Conditions, the financial items specified in this Treaty are stated in the original currency of the policy and settlement shall be made in the original currency of the policy. If payments are payable in a currency other than the original currency of the policy, they shall be converted at the rate of exchange ruling on the date of the payments is due, nothing that the debtor shall bear the currency risk for any late payment.

B.17.2 If the policies or benefits included under the scope of this Treaty are denominated in a currency other than the one in which the monetary limits are set out in the Special Conditions, the monetary limits shall be converted to this other currency using the exchange rates specified in the Special Conditions. Such exchange rates shall be reviewed as specified in the Special Conditions.

B.17.3 Specific terms relating to the rate shall be specified in the Special Conditions.

B.18 The Right of Inspection of the Reinsurer

B.18.1 The Company shall reserve all the paper about reinsurance both in electronic and in written. After the Company ceases to distribute the relevant risks to the Company, the shortest saving time of the above documents shall be executed according to the time specified in the Special Conditions. If the Company fails to reserve the above mentioned documents to the minimum period, the Reinsurer has the right to refuse to participate in the policy to the starting point and the Company shall reimburse paid indemnity in spite of the amount, unless the Company can regain all related reinsurance information in accordance to the Reinsurer.

B.18.2 The Reinsurer shall give the Company a written notice 5 working days in advance, if it intends to inspect, the Company shall provide all relevant documentation in respect of any policies or benefits hereunder this Treaty. The Reinsurer shall give the Company a written notice 48 hours in advance even in emergency case. The Reinsurer or its representative have a right to inspect all relevant documentation in respect of any policies or benefits hereunder this Treaty within normal working hour, and the Reinsurer shall undertake fees.

B.18.3 The Reinsurer shall have such a right of inspection so long as the benefits and liabilities between both parties are in force even after the termination of this Treaty.

B.19 Data Warranty

B.19.1 The Company acknowledges that the information which it provided in whatever form to the Reinsurer prior to the commencement of this Treaty constituted the basis for the Reinsurer's decision to enter into this Treaty. The Company also acknowledges that the Reinsurer continues to rely on this information and further information provided after the commencement of this Treaty in deciding whether and under what terms to continue to participate in this Treaty.

B.19.2 The Company represents and warrants to the Reinsurer as a continuing representation and

warranty that all information supplied to the Reinsurer in connection with this Treaty is true, complete and accurate and that the Company is not aware of any material fact or circumstance which has not been disclosed to the Reinsurer. A fact or circumstance shall be considered material if knowledge of it would influence the judgement of the Reinsurer in determining whether or not to provide the reinsurance cover to the Company, on what terms to provide or continue such cover, or whether or not to continue to provide such cover.

B.19.3 In the event that the Company fails to fulfil the obligation according to paragraphs 1 and 2 of this Article, the Reinsurer shall have the right to decline participation in the claims payment(s) concerned irrespective of any other remedy provided for in this Treaty.

B.20 Utmost Good Faith

The parties to this Treaty made and entered into in the principle of utmost good faith and undertake to use utmost good faith in all matters relating hereto.

B.21 Severability and Waiver

B.21.1 If any provision of the Treaty shall be found invalid or unenforceable according to the applicable jurisdiction, the other terms shall remain effective. Under such circumstance, these terms which are invalid or unenforceable shall be modified or supplied so as to confirm to the purpose of the original Treaty.

B.21.2 No failure or delay by either party in exercising any right under this Treaty shall be deemed to be a waiver thereof.

B.22 Confidentiality

B.22.1 Without written consent of another party, either party of this Treaty shall not copy, publish in any forms or disclose any information about terms in this Treaty (including but not limited to the information accumulation and industry risk analysis in normal business) to any other person except for parties under this Treaty.

B.22.2 This provision does not prohibit disclosure of information to the regulatory authorities, the courts, the professional advisers of the parties to the Treaty or the retrocessionaire of the Reinsurer to the company. In addition, either party shall have the right to disclose the information to its affiliated companies, consulting agencies, third party administrators, financial auditors, but these information receivers mentioned hereinabove shall also be bound by the confidentiality obligation.

B.22.3 The confidentiality obligation of this Treaty shall not be terminated by the termination of this Treaty, and its confidentiality obligation shall continue to be valid until the expiration of X years from the date of termination of the Treaty.

B.23 Data Protection

For the purpose of compliance with data protection laws regulating the processing of personal data, each party undertakes to ensure its compliance with the provisions of relevant laws. In particular, without prejudice to the foregoing general provisions, to fulfill its legal and contractual obligations,

the Company confirms that it has obtained and undertakes that it will obtain on a continuing basis all requisite consents for any facultative business with the Reinsurer. The parties confirm that each will only use secured processes and systems (as mutually agreed) for the transfer of such data in accordance with the provisions of the applicable data protection act.

Note: The above term is optional.

B.24 Remedies for Breaches

B.24.1 If either party of this Treaty, whether intentional or unintentional, fails to perform obligations set out in article 2 of the Treaty, unless the Treaty is terminated according to section 2) in the second paragraph of article 29 in this Treaty, the other party has the right to be compensated and to protect its relevant policies from the losses caused by the default party fulfill its obligations. This right may be fully retroactive to any claim, cost, or expected profit reduction resulting from the failure of the other party to perform its obligations.

B.24.2 The indemnity shall compensate the Party-in-loss to the level as if the obligation has been fulfilled by the default Party. The level of the indemnity may be determined by taking into consideration the reinsurance terms which would have reasonably and properly followed with full retrospective effect if the default had not occurred. Disagreements over the level of the indemnity or any action shall be submitted to arbitration as per Article 27. Nothing in this Article shall affect any other rights or remedies enjoyed by the other party under the Treaty. Furthermore, if the Company has intentionally concealed or misrepresented relevant information or data, and it can be demonstrated that a prudent and professional reinsurer, in possession of the true facts, would have declined to provide reinsurance protection for such business, then the Reinsurer shall have the right to cancel such reinsurance business with retrospective effect. In this case, all payments between the Company and the Reinsurer on this reinsurance arrangement shall be refunded at the interest rate specified in section 13.3 and no liability shall remain with the Reinsurer for this reinsurance business.

B.25 Anti-Money Laundering and Anti-Commercial Bribery

B.25.1 By virtue to relevant anti-money laundering regulations, each party undertakes to ensure that, for the purpose of the Treaty, its own anti-money laundering systems and procedures have been established and maintained.

B.25.2 The Company and the Reinsurer admit and agree:

- 1) All commercial bribery shall be prohibited;
- 2) All company representatives, employees are required to strictly enforce the rules in their organization.

If the Company or the Reinsurer discovered any activities in relation to this Treaty have already been or may be in violation of the applicable commercial bribery laws or regulations, a prompt notification shall be sent to the other party to the extend permit by applicable law.

B.26 Sanctions Resolutions

No reinsurer shall be deemed to provide cover and no reinsurer shall be liable to pay any claim or pro-

vide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that reinsurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of any jurisdiction applicable to the Reinsurer.

B.27 Articles on Arbitration

B.27.1 Both parties shall try to settle any disputes arising out of or in connection with this Treaty by negotiation. If both parties fail to reach to the Treaty, they shall submit the case to China International Economic and Trade Arbitration Commission (CIETAC) (or China International Economic and Trade Arbitration Commission _____ Branch) for arbitration which shall be conducted in accordance with the CIETAC's arbitration rules in effect at the time of applying for arbitration. The language of arbitration is Chinese, and the place of arbitration is China <city> (optional).

B.27.2 The arbitral award is final and binding upon both parties.

B.27.3 Both parties agree that arbitration shall be the exclusive method to settle the dispute.

B.28 Governing Law

Unless otherwise agreed in the Special Conditions, this Treaty shall be governed by the law of the People's Republic of China.

B.29 Alterations and Termination of the Treaty

B.29.1 All amendments to this Treaty agreed by both parties shall be duly attached to this Treaty in the form of a written supplementary Treaty, and the supplementary Treaty shall be signed by both parties. This supplementary Treaty shall be part of the Treaty and shall be equally binding.

B.29.2 Either party has the right to terminate reinsurance business linked to new issued policies by giving in advance at least three months' written notice to the other party. During such notice period, the Reinsurer shall continue to be liable for new cessions established under the terms of this Treaty. Reinsurer's liability to all policies under the Treaty remains valid until the termination date. Upon termination in accordance with this paragraph, reinsurance of a policy ceded before the date of termination shall remain in force until the related policy's expiry or subject to the terms and conditions for this Treaty. After expiry of this Treaty, the Reinsurer is not liable for any new businesses.

B.29.3 The terms on retroactive cancellation shall be specified in the Special Conditions.

- a) If the Company fails to pay the reinsurance premium as promised in the Treaty, the Reinsurer shall have the right to claim the settlement and request the termination of the Treaty with _____ month's prior to the notice. The Reinsurer's liability under the Treaty is released upon termination.
- b) Under the case where reinsurance premium rates are non-guaranteed, the Reinsurer has the right to notify the Company about adjustment on the rates three months in advance and the reinsurance premium rates after adjustment shall be determined by both parties through negotiation. If both parties fail to reach an Treaty about the adjustment during _____ months negotiation period, the Reinsurer has the right to terminate the business which has not agreed upon the expiration of the

three months' notice. After the termination of the settlement, the Company will no longer bear any responsibility for the business not reaching a consensus.

- c) In following circumstances, either party of this Treaty has the right to notify the other to terminate this Treaty with immediate effect:
 - 1) The Treaty cannot be performed or the purpose of the Treaty cannot be achieved due to the changes in the legal environment or that the other Party's operation is seriously deteriorating or becomes insolvent in accordance to the regulations of the insurance regulatory authorities;
 - 2) The other party is merged with companies other than its affiliated company or its ownership or control transferred to a company other than its affiliated company;
 - 3) The other Party loses the whole or part of its paid-up share capital;
 - 4) The other party fails to perform the responsibility obliged by the Treaty or seriously violates the Treaty and has failed to take remedial measures within _____ days upon receipt of the no-fault party's notice;
 - 5) The performance of this Treaty is rendered impossible de jure or de facto for reasons not attributable to the Party giving notice,
 - 6) The other party of the Treaty went to bankruptcy or has its business license or business operation permission that the Treaty or the insurance contracts attached to revoked;

If this Treaty is terminated in any circumstances mentioned in this article, (including the country of one Party involved in armed hostilities with the country in which the other Party has its domicile or head office), all cession under the Treaty shall be ceased as if the Treaty is terminated. Since the termination of this Treaty, reinsurer shall not be liable to any new business or in-force business.

- d) This Treaty shall be terminated when other termination conditions listed in the Special Conditions are satisfied.

B.29.4 The notice under this Treaty shall be issued in writing (letter, fax, e-mail etc.) to the address indicated in this Treaty. The notice shall enter into force upon delivery, unless there is evidence that it has been received in advance. The notice is deemed to be served:

- 1) In the case of delivery by hand, the notice shall be deemed to be served upon delivery to the address designated by the parties;
- 2) In the case of pre-paid registered mail, the notice shall be deemed to be served within 10 working days after the post is mailed;
- 3) In the case of express delivery, the notice shall be deemed to be served when the Courier is signed and confirmed by the Courier;
- 4) In the case of mail by air mail, the notice shall be deemed to be served five working days after the post;
- 5) In the case of delivery by fax, the notification shall be deemed to be served when the sender's fax machine records transmission confirmation;
- 6) In the case of delivery by e-mail, the notification shall be deemed to be served when addressing the specific system of the receiver.

B.30 Representations and Warranties

B.30.1 The Company represents and warrants as follows:

- 1) It is duly organized and validly existing under the laws of its domicile country;

- 2) It is empowered under applicable laws and by its charter and bylaws to enter into and perform the duties contemplated in this Treaty; and
- 3) It has taken all requisite corporate proceedings to authorize it to enter into and perform the duties contemplated in this Treaty; and
- 4) No person under its management and authorization has violated any local laws and regulations governing insurance; and
- 5) It has obtained any and all regulatory approvals as may be required for the Company to cede the policies covered hereunder and to assure whatever reserve credits it may wish to take for such cession; and
- 6) As part of the process of due diligence, the company has provided some data to the reinsurer. This data completely and accurately describes the financial status of the company and of the policies subject to the reinsurance Treaty.

B.30.2 The Reinsurer represents and warrants as follows:

- 1) It is duly organized and validly existing under the laws of its domicile country; and
- 2) It has been granted a license to operate a reinsurance business under the laws of the People's Republic of China and is in good standing under those laws; and
- 3) It is empowered under those laws and by its charter and bylaws to enter into and perform the duties contemplated in this Treaty; and
- 4) It has taken all requisite corporate proceedings to authorize it to enter into and perform the duties contemplated in this Treaty.

B.31 Language

This Treaty is written bilingually (in English and Chinese) and has equal legal effect. Where the English version is inconsistent with the Chinese version, the Chinese version shall prevail unless otherwise agreed in the schedule.

B.32 Term Definition

Ultimate Net Loss: refers to the total amount of sum at risk in the event of catastrophe event that should be borne by the Company after deducting all other reinsurances. The "sum at risk" refers to the difference between the sum insured or its present value (if the benefit payable upon the insured event is paid by periodic payments) and the actuarial reserve or cash value under the policy (as calculated in accordance with the requirements provided by the China Insurance Regulatory Commission). The present value abovementioned shall be calculated in accordance with the Company's actuarial standards for such calculation.

(Signature Page)

In Witness whereof, the Parties hereto by their respective duly authorized representatives have executed this Treaty in _____ copies on the date written and places indicated as follows:

For and on behalf of _____ LIFE INSURANCE COMPANY

Legal representative or authorized representative

In _____,

This _____ day of _____ (year)

For and on behalf of _____ REINSURANCE COMPANY

Legal representative or authorized representative

In _____,

This _____ day of _____ (year)

参 考 文 献

- [1] 中华人民共和国合同法
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