

**AMERICAN NATIONAL INSURANCE COMPANY**

**One Moody Plaza • Galveston, Texas • 77550**

(Herein called "The Reinsurer")

WE, AMERICAN NATIONAL INSURANCE COMPANY  
BY THIS TREATY OF EXCESS LOSS REINSURANCE

TREATY NUMBER: [ \_\_\_\_\_ ]

ISSUED TO: [ \_\_\_\_\_ ]

agree to pay the Excess Loss Reinsurance benefits provided herein upon receipt of satisfactory written proof of loss with respect to the reinsured Employer named above, insofar as such loss relates to the self-insured Plan established by the Employer.

The consideration for coverage under this Excess Loss Reinsurance Treaty is the Employer's application and payment of the required premiums as they become due.

This Treaty takes effect on [ \_\_\_\_\_ ] ("Inception Date"), which will be the effective date and the date of issue. This Treaty shall end on [ \_\_\_\_\_ ] ("Expiration Date"). All periods indicated in this Treaty begin and end at 12:01 A.M. standard time at the office of the Employer.

The provisions and conditions of the pages that follow will form a part of this Treaty as fully as if recorded in detail above the signature(s) appearing below.

Signed at the Administrative Office of the Reinsurer,



**SECRETARY**



**PRESIDENT**

**TREATY CANCELLABLE BY THE REINSURER; NON-RENEWABLE**

EXCESS LOSS REINSURANCE

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**AMERICAN NATIONAL INSURANCE COMPANY**  
**SCHEDULE OF EXCESS LOSS REINSURANCE**

Employer Identification Number: [\_\_\_\_\_]

Employer ("You"): [\_\_\_\_\_]

Address: [\_\_\_\_\_]

	<u>Inception Date</u>	<u>Expiration Date</u>
Treaty Period:	[_____]	[_____]
Expense Incurral Period:	Aggregate: [_____]	[_____]
	Specific: [_____]	[_____]
Expense Payment Period:	Aggregate: [_____]	[_____]
	Specific: [_____]	[_____]

Maximum Amount for Run-In Claims: Aggregate: [\_\_\_\_\_]

Actively at Work Provision (waived or applied): [\_\_\_\_\_]

**A. AGGREGATE EXCESS LOSS REINSURANCE**

**Reinsurer's Limit of Liability** (Aggregate Maximum Limit):

(1) [\_\_\_\_\_] % of paid aggregate losses which are in excess of the Aggregate Retention Amount, subject to a maximum limit of \$[\_\_\_\_\_].

(2) Maximum Amount Per Covered Person applicable to Aggregate Excess Loss Reinsurance \$[\_\_\_\_\_].

**Aggregate Retention Amount**

(3) Retention Factor: Employee only: \$[\_\_\_\_\_]; Family: \$[\_\_\_\_\_];  
Composite: \$[\_\_\_\_\_]

(4) Minimum Aggregate Retention Amount: \$[\_\_\_\_\_]



## 1. COVERAGE PROVISIONS

- A. **Aggregate Excess Loss Reinsurance:** The Reinsurer will reimburse You a percentage of Covered Benefits paid under Your Plan, subject to all terms and conditions of this Treaty, to the extent that such payments are incurred during the Expense Incurrence Period, paid during the Expense Payment Period and exceed the Aggregate Retention Amount. The Reinsurer's liability to reimburse You is limited to the Aggregate Maximum Limit. For purposes of this provision, Covered Benefits cannot include any amounts that exceed the Specific Retention Amount per Covered Person.

The Expense Payment Period, Aggregate Retention Amount, Aggregate Maximum Limit, Specific Retention Amount per Covered Person, and the percentage that the Reinsurer will reimburse You are shown in the Schedule. We will pay You as soon as reasonably possible after the end of Your Treaty Period, upon receipt of the necessary documentation for reimbursement. We will not make any payments to You unless all premiums due hereunder are paid on a current basis.

- B. **Specific Excess Loss Reinsurance:** The Reinsurer will reimburse You a percentage of Covered Benefits paid under Your Plan, subject to all terms and conditions of this Treaty, to the extent such payments are incurred during the Expense Incurrence Period, paid during the Expense Payment Period and exceed the Specific Retention Amount. The Reinsurer's liability to reimburse You is limited to the Specific Maximum Limit.

The Expense Incurrence Period, Expense Payment Period, Specific Retention Amount, Specific Maximum Limit and the percentage that the Reinsurer will reimburse You are shown in the Schedule. We will pay You any benefits that We have determined are due as soon as reasonably possible following receipt of the necessary documentation for reimbursement. We will not make any payments to You unless all premiums due hereunder are paid on a current basis.

## 2. DEFINITIONS

- A. **ACTIVELY AT WORK** (or "Active Work," or "Active Service") - The performance of all the regular duties of employment for the Employer on a full-time basis (at least 30 hours per week), at normal pay, at the Employer's normal place of business. An Employee will be considered Actively at Work on each day of a regular paid vacation or a regular non-working day on which he is not disabled, if he was Actively at Work on his last scheduled work day.

If an employee eligible under Your Benefit Plan is not Actively at Work (or if an eligible dependent is hospital confined or totally disabled, i.e., unable to perform the normal functions and activities of a person of like sex and age in good health) when such person's coverage under Your Plan or this Treaty (whichever is later) would otherwise take effect, coverage under this Treaty will not become effective until the day next following: 1) The employee's return to Active Service; or 2) The end of the dependent's hospital confinement or total disability. The employee or dependent must continue to meet the eligibility

requirements of Your Plan in order for such deferred coverage to become effective under this Treaty. No benefits shall be provided under this Treaty for any expenses incurred during such non-covered period(s), nor shall any such expenses apply toward the Specific Retention Amount or be considered a Covered Benefit for Aggregate Excess Loss Reinsurance hereunder.

B. **AGGREGATE RETENTION AMOUNT**, as shown in the Schedule, is the total amount of eligible expenses incurred and paid with respect to all persons covered under Your Plan, and will be determined at the end of the Treaty Period by use of the following formula:

- i. The total number of employees and their dependent units who are covered under Your Plan at the beginning of each month during the Treaty Period will be multiplied by the appropriate Retention Factor stated in the Schedule.
- ii. The sum of the monthly amounts computed as described in (i) above will be the Aggregate Retention Amount; except that the Aggregate Retention Amount will never be less than the Minimum Aggregate Retention Amount stated in the Schedule.
- iii. This aggregate amount does not include any payments You made to a Covered Person that were reimbursable under the Specific Excess Loss Reinsurance, or were in excess of the Maximum Amount Per Covered Person chargeable to the aggregate as stated in the Schedule of Excess Loss Reinsurance. The aggregate also does not include: Plan deductibles; Plan coinsurance; expenses or claims not covered under the terms of the Plan Document; expenses reimbursable from any other source; or costs of claim administration or litigation.
- iv. If this Treaty terminates prior to the end of Treaty Period, the Minimum Aggregate Retention Amount will not be pro-rated.

C. **AGGREGATE RETENTION AMOUNT FACTOR**:

- i. **EMPLOYEE-ONLY RETENTION FACTOR**: The amount specified in the Schedule of Excess Loss Reinsurance that is multiplied by the number of Covered Employees when determining the Aggregate Retention Amount.
- ii. **FAMILY RETENTION FACTOR**: The amount specified in the Schedule of Excess Loss Reinsurance that is multiplied by the number of Covered Employees with Covered Dependents when determining the Aggregate Retention Amount.
- iii. **COMPOSITE RETENTION FACTOR**: The amount specified in the Schedule of Excess Loss Reinsurance which is multiplied by the number of Covered Employees with or without Covered Dependents when determining the Aggregate Retention Amount.

- D. CLAIMS ADMINISTRATOR means the individual or entity named in the Schedule of Excess Loss Reinsurance to perform claim processing under Your Plan on Your behalf and which has been approved to do so by the Reinsurer.
- E. COVERED BENEFITS, for the purposes of reimbursement under this Treaty, are limited to the expenses incurred by a Covered Person that are:
- i. covered under the terms of Your Plan, taking into account all of the exclusions and limitations in Your Plan; and
  - ii. incurred during the Expense Incurrence Period; and
  - iii. paid during the Expense Payment Period; and
  - iv. included in the Covered Benefits shown in the Schedule; and
  - v. not otherwise limited or excluded by this Treaty.

It should be noted that Covered Benefits may not always be the same for Specific and Aggregate coverage; see Schedule for details. Covered Benefits do not include claim administrative fees, consulting fees, claim investigative expenses, legal fees, or other expenses related to litigation issues.

F. COVERED PERSON

- (a) Means an employee or an employee's dependent who meets the eligibility requirements as set forth under Your Plan. The employee or dependent must not have incurred medical expenses the lesser of 50% of the Specific Retention Amount shown on the Schedule page or \$30,000 during the 12 months immediately preceding the effective date of this Treaty without being disclosed to and approved by the Reinsurer.
- (b) If the Actively At Work provision applies as shown in Schedule, then the Covered Person must be Actively At Work on the effective date of this Treaty. If the employee is not Actively At Work on the effective date and the Actively At Work provision applies, then coverage will not be effective until the employee or dependent satisfies the Actively At Work provisions.
- (c) If the Actively At Work provision is waived on the Schedule page, then the Covered Person must satisfy (a) above.

- G. ELIGIBLE EXPENSE means a charge that is covered and payable under Your Plan.

- H. **EXPENSE INCURRAL PERIOD**, as shown in the Schedule, means the period of time during which an expense covered under Your Plan must be incurred by a Covered Person to count as a Covered Benefit under this Treaty. The Schedule may include an additional Run-In Expense Incurred Period preceding the start of the Treaty Period. An expense is incurred on the date the service, treatment, supply, or facility is provided.
- I. **EXPENSE PAYMENT PERIOD**, as shown in the Schedule, means the period of time during which payment must be made for expenses covered under Your Plan in order to satisfy a deductible or receive reimbursement under this Treaty. An expense is considered paid on the date the check is issued, provided it is mailed and paid upon presentation.
- J. **MAXIMUM AMOUNT FOR RUN-IN CLAIMS**, if any as shown in the Schedule, means the maximum allowable claim amount applied towards the Aggregate Retention Amount that was incurred during the Expense Incurred Period and paid during the Expense Payment Period.
- K. **MINIMUM AGGREGATE RETENTION AMOUNT** means the minimum amount of aggregate Covered Benefits that must be paid under Your Plan before any benefits become payable under the Aggregate Excess Loss Reinsurance provisions of this Treaty. This amount is specified in the Schedule of Aggregate Excess Loss Reinsurance, and the full amount will apply even if coverage terminates during the Treaty Period.
- L. **PAID CLAIM** means charges that are covered and payable under Your Plan, that have been adjudicated and approved, with check or draft issued and placed in the U.S. mail, for which sufficient funds are on deposit on the date said check or draft is issued, and which said check or draft is paid upon presentation.
- M. **PLAN** means Your self-funded employee benefit plan approved by the Reinsurer. A copy of Your Plan Document is attached to Your Application for Excess Loss Reinsurance and is made a part of this Treaty.
- N. **PLAN DOCUMENT** means a detailed written description of the Employer's self-funded Plan.
- O. **REINSURER** means American National Insurance Company.
- P. **SCHEDULE** means the Schedule of Excess Loss Reinsurance showing the various Excess Loss Reinsurance features for the Employer and which is made a part of this Treaty.
- Q. **YOU or YOUR** means the reinsured Employer named in the Schedule.
- R. **WE or OUR or US** means American National Insurance Company.



**3. EXCLUSIONS AND LIMITATIONS OF LIABILITY:**

- A. The Reinsurer's liability under this Treaty is limited to reimbursement of claims amounts properly paid to, or on behalf of, Covered Persons under Your Plan, and for those Covered Benefits stated in the Schedule.
- B. The Reinsurer will not be liable for claims amounts paid which are not covered under the terms and provisions of Your Plan.
- C. The Reinsurer will not be liable for claims amounts paid which can be recovered from or attributed to any other plan of coverage, or recovered by applying the coordination of benefits provisions of Your Plan.
- D. The Reinsurer will not be liable for punitive, exemplary or consequential damages and You shall hold the Reinsurer harmless from any damages of any kind which are not caused by the Reinsurer's own acts or omissions.
- E. The Reinsurer will not be liable for claims amounts paid for the care or treatment of sickness or injury which is caused by war, declared or undeclared, or any act of war; while in the act of committing a felony; or for services payable under government programs or private medical research programs.
- F. The Reinsurer will not be liable for benefits paid under Your Plan for services not medically necessary.
- G. The Reinsurer will not be liable for benefits paid under Your Plan for charges in excess of "usual and customary" fees.
- H. The Reinsurer will not be liable for benefits paid under Your Plan for mental and nervous/alcohol and drug related expenses in excess of the lifetime maximum shown on the Schedule page.
- I. The Reinsurer will not be liable for expenses incurred while Your Plan is not in force with respect to any otherwise Covered Person.
- J. The Reinsurer will not be liable for liability assumed by You under any contract, service agreement or arrangement other than Your Plan.
- K. The Reinsurer will not be liable for any expense incurred due to or as a consequence of noncompliance with any applicable state or federal statute or regulation.
- L. The Reinsurer will not be liable for expenses incurred as a result of accidental bodily injury or sickness arising out of or in the course of any occupation or employment for

wage or profit, or for which the Covered Person is entitled to benefits under any workers' compensation or occupational disease policy, whether or not any such policy is actually in force.

- M. The Reinsurer will not be liable for any costs of claim administration under Your Plan, for any payments or services provided by the Claims Administrator, or for consulting fees or litigation costs.
- N. The Reinsurer will not be liable for expenses incurred as a result of radioactive contamination or the hazardous properties of nuclear material.
- O. The Reinsurer will not be liable for expenses incurred prior to the Inception Date of the Treaty Period and/or Expense Incurral Period of this Treaty.
- P. The Reinsurer will not be liable for benefits paid under Your Plan for Experimental or Investigational Medicine, i.e., equipment, drugs or dosages, devices, services, supplies, tests or medical treatment or procedures (generally, individually or collectively called "Regimens") which, when used for treatment of a specific illness or injury, are experimental, investigational or oriented toward research. Experimental or Investigational Medicine will not be considered medically necessary.

A drug, device, service, supply, test, or medical treatment or procedure is Experimental or Investigational under this Treaty and no benefits will be payable if, at the time it is to be used or furnished:

- i. The Regimens have not received final approval from the U.S. Food and Drug Administration (FDA) for the lawful marketing of the Regimens for the specific Injury or Illness to be treated; or
- ii. The Regimens have not received the approval or endorsement of the American Medical Association (AMA) for the specific injury or illness to be treated; or
- iii. The Regimens have not received the approval or endorsement of the National Institutes of Health (NIH) or its affiliated institutes for the specific injury or illness to be treated; or
- iv. The Regimens are to be or are being used or studied in proposed or ongoing clinical research or clinical trials as evidenced by an Informed Consent or treating facility's protocol; or are part of a proposed or ongoing Phase I, II, or III clinical trial; or are the subject of proposed or ongoing research or studies to determine their dosage, safety, toxicity, efficacy, or their efficacy as compared to other means of treatment or diagnosis; or
- v. The opinion of medical or scientific experts (as reflected in published reports or articles in medical and scientific literature; or the written protocol(s) used by the treating facility or other facilities studying substantially the same or similar drugs, devices,

services, supplies, tests, treatments or procedures; or the Informed Consent used by the treating facility or other facilities studying substantially the same or similar drugs, devices, services, supplies, tests, treatments or procedures) indicates that further studies, research, or clinical trials of the Regimens are necessary to determine their dosage, safety, toxicity, efficacy, or their efficacy as compared to other means of treatment or diagnosis; or

- vi. The Regimens have not been proven effective for the specific injury or illness as of the date the treatment is provided.

Any claims amounts paid by Your Plan which are excluded by virtue of the above EXCLUSIONS AND LIMITATIONS OF LIABILITY will also be excluded from contributing to either the Aggregate Retention Amount or Specific Retention Amount of this Treaty.

- 4. **PREMIUM:** Specific Excess Loss Premium: Premiums are payable by You on an installment basis. Each monthly premium shall be computed by multiplying the Specific Premium rate stated in the Schedule by the number of respective employees and dependent units who are covered under Your Plan at the beginning of each month during the Treaty Period. The first premium is due on the inception date of the Treaty, and subsequent premiums are due on the first day of each month thereafter. The Reinsurer reserves the right to adjust premium rates and/or monthly factors if: a) there is a change in Your Plan's benefits; b) the Employer's location changes; c) the number of employees varies by more than 20%; d) the nature of the Employer's business changes; or e) prior claims experience submitted by You or Your agent as a basis for determining the retention factors under this Treaty is inaccurate.

Aggregate Excess Loss Premium: The Deposit Premium shown in the Schedule is payable by You on the Inception Date of the Treaty Period. Premiums are payable at the beginning of each month during the Treaty Period, or portion thereof. Premiums will not be prorated for any partial month of coverage; a full month's premium will be payable for any such period. The final earned aggregate premium, at the end of each Treaty Period, or portion thereof if the coverage terminates sooner, will be either the aggregate premium paid to date including the Deposit Premium, or the Minimum Premium stated in the Schedule, whichever is greater. The Minimum Premium will be applicable regardless of how long coverage remains in force during the Treaty Period. Any balance due Us after deducting the Deposit Premium from final earned premiums will be payable by You within 30 days after the expiration date of the Treaty Period, or portion thereof if coverage terminates sooner. If the Deposit Premium exceeds the larger of the final earned premium and the Minimum Premium, the excess will be payable to You within 30 days after the expiration date of the Treaty Period, or portion thereof if coverage terminates sooner.

**5. GENERAL PROVISIONS:**

**A. Amendment**

This Treaty may be amended from time to time by mutual consent of You and the Reinsurer. Any such amendment shall be without prejudice to any claim arising prior to the date of change. No agent or other person, except an officer of the Reinsurer has authority to waive any conditions or restrictions of this Treaty, or to bind the Reinsurer by making any promise or representation or by giving or receiving any information. No change in this Treaty shall be valid unless evidenced by an endorsement to it signed by You and by an officer of the Reinsurer.

**B. Employee Benefit Plan**

The terms and provisions of Your Plan will be in accordance with that which is in effect at the Inception Date of this Treaty. Your Plan cannot be changed in any way while this Treaty in force without the advance written consent of the Reinsurer.

**C. Payment of Premium**

You shall remit all premiums either to the Reinsurer at its Administrative Office or to an authorized representative of the Reinsurer. Except as otherwise provided under the General Provision "D", this Treaty shall automatically terminate if any premium is not paid when due.

**D. Grace Period**

If any premium is not paid in full on or prior to its due date, a grace period of 31 days following the premium due date shall be granted for the payment of that premium. This Treaty shall continue in full force and effect during the grace period. You shall be liable to the Reinsurer for all premiums remaining unpaid on the date of termination of coverage, including premium for the days of the grace period during which coverage remains in force. If You do not pay all due premiums before the end of the grace period, this Treaty will automatically cease at the end of such grace period.

**E. Claims Administration**

While this Treaty is in force, You shall employ, at Your own expense, the services of the Claims Administrator stated in the Schedule. The Claims Administrator will be Your agent, and will not be considered an agent of the Reinsurer. The services of the Claims Administrator cannot be terminated without the advance written consent of the Reinsurer. Such consent shall only be granted in the event that the Claims Administrator is to be replaced by another acceptable to the Reinsurer.

F. Duration

This Treaty will commence on the Inception Date shown in the Schedule. It will terminate and all coverage provided by this Treaty will cease on the earliest of the following dates:

- i. the Treaty Period Expiration Date shown in the Schedule;
- ii. the end of the grace period, if any premium remains unpaid;
- iii. the date Your Plan terminates, or the date it changes, except as provided in General Provision "B" above;
- iv. the first day of any month specified by You in written notice mailed to the Reinsurer, provided that such written notice is postmarked prior to the date so specified;
- v. the date the services of the Claims Administrator as stated in the Schedule are terminated, except as provided in General Provision "E"; or
- vi. the date that any of the changes specified in General Provision "G" are made, except as otherwise provided therein.

G. Group Specifications - Changes

You shall notify the Reinsurer in writing not less than 31 days in advance of any change(s) of the following nature and will consent to any adjustments to this Treaty that are required by the Reinsurer as a consequence of such change(s):

- i. A change in the geographical area(s) in which You are located;
- ii. A change in the nature of business in which You are engaged; or
- iii. An increase or decrease of twenty (20) percent or more in the number of employees covered under Your Plan on any premium due date hereunder.

H. Records - Information to be Furnished

You shall forward or cause the Claims Administrator to forward all information required by the Reinsurer in connection with the administration of this Treaty and the determination of premiums and payments. You shall forward or cause the Claims Administrator to forward or make available to the Reinsurer for inspection all records that have a bearing on the Reinsurance hereunder. Such records shall be maintained and open to the Reinsurer for inspection at any time for up to three years after termination of this Treaty.

The Reinsurer shall not be liable for the fulfillment of any obligations dependent upon information to be furnished by You or the Claims Administrator until such information is received in a form satisfactory to the Reinsurer. The Reinsurer reserves the right to amend the terms and conditions of this Treaty if incorrect information is furnished and the Reinsurer acted to its prejudice by relying upon it.

I. Loss Provisions

In the event of any reimbursement being claimed under this Treaty, accounting records and other written proof of the basis upon which reimbursement is claimed must be furnished to the Reinsurer, in a form acceptable to the Reinsurer, within 90 days.

The Reinsurer will reimburse You as soon as reasonably possible after adequate proof of loss is received, except that there shall be no payment under the Aggregate Excess Loss provision until after the Expiration Date of the Treaty Period, and audits satisfactory to the Reinsurer are completed.

J. Subrogation

You may be entitled to recover from third parties for payments made to or on behalf of persons covered under Your Plan. If You recover from a third party, the recovered amount shall not be used to satisfy any retention requirement under this Treaty.

The Reinsurer may subrogate all Your rights if You fail to prosecute any valid claims against third parties and the Reinsurer, as a result, becomes liable to make payments under this Treaty. The remaining amount, if any, will be paid to You.

K. Legal Action

No action at law or in equity shall be brought to recover on this Treaty prior to the expiration of 60 days after written proof of loss has been furnished in accordance with the requirements of this Treaty. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

If any time limitation of this Treaty with respect to bringing an action at law or in equity to recover on this Treaty is less than that permitted by the law of the jurisdiction of issue, that limitation is hereby extended to agree with the minimum period permitted by that law.

L. Workers' Compensation Insurance

Coverage provided under this Treaty applies only to Your Plan of Covered Benefits for non-occupational accidents or illnesses. It is not the intent of this Treaty to provide benefits in lieu of Workers' Compensation Insurance.

M. Statements

In the absence of fraud, all statements made by You or a Covered Person shall be deemed representations and not warranties.

N. Notice and Proof of Loss

Written notice of a claim must be given to the Reinsurer when a claim reaches 50% of the Specific Retention Amount and/or if required for a specific diagnosis within 20 days of the date of the loss for which claim is made, or as soon as is reasonably possible. Notice given by or on behalf of a Covered Person or beneficiary to the Reinsurer (at its home office as indicated on the face page) or to any authorized agent of the Reinsurer, with enough information to identify the Covered Person, will be deemed notice to the Reinsurer.

Written proof of loss must be given to the Reinsurer within 90 days of such loss. Proof may be submitted later, if it was not reasonably possible to submit it within this period. In no event, except in the absence of legal capacity of the claimant, may Proof be submitted later than one year from the time it is otherwise required.

O. Limit of Premium Refunds

Whether premiums were paid in error or otherwise, We will refund only that portion of the excess premium that was paid during the 12-month period that preceded the date on which We learned of such overpayment.