BRMA 60A

RUN-OFF REINSURER

1. “Run-off Reinsurer” means any Reinsurer that:
   1. has been ordered by a state insurance department or other legal authority to cease writing business, or has been placed under regulatory supervision or in rehabilitation; or
   2. has ceased reinsurance underwriting operations; or
   3. engages in a process of Scheme of Arrangement or similar procedure related to this Contract, including, but not limited to, an insurance business transfer scheme pursuant to Part VII of the Financial Services and Markets Act 2000 (U.K.), as may be amended from time to time; or
   4. has transferred its claims-paying authority to an unaffiliated entity without the Company’s prior written consent; or
   5. in any other way has assigned its interests or delegated its obligations under this Contract to an unaffiliated entity without the Company’s prior written consent.

However, the agreement by a Lloyd’s syndicate to follow claim procedures under Lloyd’s Claims Scheme (combined), or as amended, shall not constitute a transfer of its claims-paying authority, for purposes of subparagraphs (4) and (5) of this paragraph.

1. Notwithstanding any other provision of this Contract, the Company may elect, by giving written notice to the Run-off Reinsurer at any time after a Reinsurer becomes a Run-off Reinsurer, that any or all of the following shall apply to the Run-off Reinsurer’s participation hereunder:
   1. If the Run-off Reinsurer does not pay, dispute or submit a query concerning a claim within thirty (30) days of billing, it shall be subject to penalties of the **LATE PAYMENTS Article** **[if applicable, if not see parenthetical]**, which shall be (**5.00% initially and)** increased by 0.5% for each thirty (30) days that a payment is past due or not disputed or questioned, subject to a maximum increase of 7.0%.
   2. The Run-off Reinsurer shall have no right of access to the Records of the Company if the Run-off Reinsurer has denied payment of any claim hereunder or there is a pending arbitration between the Company and the Run-off Reinsurer regarding any claim hereunder. A reservation of rights shall be considered a denial of a claim. Notwithstanding the above, the Run-off Reinsurer shall continue to have access to Records of the Company for any claim for which it has raised a query within thirty (30) days of its receipt of a billing, but any inspection of Records must be completed within ninety (90) days of receipt of billing, or access will be deemed waived.

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If payment of any claim has been received from Subscribing Reinsurers constituting at least 70% of the interests and liabilities of all Subscribing Reinsurers that participated on this Contract, and are active as of the due date, it being understood that said date shall not be later than ninety (90) days from the date of transmittal by the Intermediary of the initial billing for each such payment, the Run-off Reinsurer shall be estopped from denying such claim and must pay within ten (10) days following transmittal to the Run-off Reinsurer of written notification of such payments. For purposes of subparagraph, a Reinsurer shall be deemed to be “active” if it is not a Run-off Reinsurer.

* 1. The Run-off Reinsurer’s liability for losses for Policies covered by this Contract, at the Company’s option, shall be commuted. In the event the Company and the Run-off Reinsurer cannot agree on the commutation amount of the Run-off Reinsurer’s liability under such Policies, they shall appoint an actuary or appraiser to assess such liability and shall share equally any expense of the actuary or appraiser. If the Company and the Run-off Reinsurer cannot agree on an actuary or appraiser, the Company and the Run-off Reinsurer each shall nominate three individuals, of whom the other shall decline two, and the final appointment shall be made by drawing lots. Payment by the Run-off Reinsurer of the amount of liability ascertained shall constitute a complete and final release of both parties under this Contract. The cost of the actuary or appraiser shall be shared equally by the parties.
  2. The Run-off Reinsurer shall immediately provide funding of the Reinsurer’s Obligations as set forth in the **UNAUTHORIZED REINSURANCE Article [or other applicable article]**. This subparagraph does not apply to the Run-off Reinsurer to the extent that the Run-off Reinsurer has already provided funding under the **UNAUTHORIZED REINSURANCE Article**.
  3. In the event that either party demands arbitration of a dispute between the Company and the Run-off Reinsurer, and the amount in dispute is less than $500,000, unless the arbitration notice includes a demand for rescission of this Contract, notwithstanding the terms of the **ARBITRATION Article**, the dispute shall be resolved by a sole arbitrator and the following procedures shall apply:
     1. The sole arbitrator shall be chosen by mutual agreement of the parties within fifteen (15) business days after the demand for arbitration. If the parties have not chosen an arbitrator within the fifteen (15) business days after the receipt of the arbitration notice, the arbitrator shall be chosen in accordance with the Neutral Arbitrator Selection Procedure modified for a single arbitrator, established by the AIDA Reinsurance and Insurance Arbitration Society - U.S. (ARIAS) and in force on the date the arbitration is demanded. The nominated arbitrator must be available to read any written submissions and hear testimony within sixty (60) calendar days of being chosen.

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* + 1. Within ten (10) business days after the arbitrator has been appointed, the parties shall be notified of deadlines for the submission of briefs and documentary evidence, as determined by the arbitrator. There shall be no discovery or hearing unless the parties agree to engage in limited discovery and/or a hearing. Also, the arbitrator can determine, without the consent of the parties, that a limited hearing is necessary.

1. The Company’s waiver of any rights provided in this Article is not a waiver of that right or other rights at a later date.

*Accepted for inclusion fall 2015*

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BRMA 60B

RUN-OFF REINSURERS

1. “Run-off Reinsurer” means a Subscribing Reinsurer:

1. Has been ordered by a state insurance department or other legal authority to cease writing business, or has been placed under regulatory supervision or in rehabilitation; or

2. Has ceased all or substantially all of its reinsurance underwriting operations; or

3. Has transferred all or substantially all of its claims-paying authority to an unaffiliated entity without the consent of the Company; or

4. In any other way has assigned all or substantially all of its interests or delegates all or substantially all of its obligations under this Contract to an unaffiliated entity.

1. Notwithstanding paragraph A above, the following shall not constitute a transfer of the Subscribing Reinsurer’s claims-paying authority for purposes of subparagraphs 3 and 4 of paragraph A above:

1. The transfer of claims-paying authority or administration to a third party, if the Subscribing Reinsurer maintains control over claims settlement decisions; or

2. Agreement by a Lloyd’s Syndicate to follow claim procedures under Lloyd’s 2006 Claims Scheme.

1. Notwithstanding any other provision of this Contract, in the event a Subscribing Reinsurer becomes a Run-off Reinsurer at any time, the Company may elect, by giving written notice to the Run-off Reinsurer at any time thereafter, that all or any of the following shall apply to the Run-off Reinsurer’s participation hereunder:
   1. If mutually agreed by the Company and the Run-off Reinsurer, the Run-off Reinsurer’s liability for losses for Policies covered by this Contract may be commuted. In the event the Company and the Run-off Reinsurer cannot agree on the commutation amount of the Run-off Reinsurer’s liability under such Policies, either party may choose to abandon the process. If neither party chooses to abandon the process, they may appoint an actuary and/or appraiser to assess such liability and shall share equally in any expense of the actuary and/or appraiser. The appointed actuary shall be either a Fellow of the Casualty Actuarial Society or a Member of the American Academy of Actuaries. If the Company and the Run-off Reinsurer cannot agree on an actuary and/or appraiser, the parties shall abandon the process. If a mutually acceptable commutation is agreed, payment by the Run-off Reinsurer of the amount of liability ascertained shall constitute a complete and final release of both parties under this Contract. In the event the Company and the Run-off Reinsurer do not agree to a mutually acceptable commutation, the parties’ respective rights and obligations shall continue as set forth in this Contract.

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2. In the event that either party demands arbitration of a dispute between the Company and the Run-off Reinsurer, and the amount in dispute is less than $250,000, unless the arbitration notice includes a demand for rescission of this Contract, notwithstanding the terms of the ARBITRATION ARTICLE, the dispute shall be resolved by a sole arbitrator and the following procedures shall apply:

a. The sole arbitrator shall be chosen by mutual agreement of the parties within 15 business days after the demand for arbitration. If the parties have not chosen an arbitrator within the 15 business days after the receipt of the arbitration notice, the arbitrator shall be chosen in accordance with the Neutral Arbitrator Selection Procedure modified for a single arbitrator, established by the AIDA Reinsurance and Insurance Arbitration Society – U.S. (ARIAS) and in force on the date the arbitration is demanded. The nominated arbitrator must be available to read any written submissions and hear testimony within 60 calendar days of being chosen.

b. Within 10 business days after the arbitrator has been appointed, the parties shall be notified of deadlines for the submission of briefs and documentary evidence, as determined by the arbitrator. There shall be no discovery or hearing unless the parties agree to engage in limited discovery and/or a hearing; provided, however, that the arbitrator can determine, without the consent of the parties, that a limited discovery and/or a limited hearing are necessary.

c. The arbitrator shall render a decision within 10 business days after the latter of the date on which briefs are submitted or the end of the limited hearing. The decision of the arbitrator shall be in writing and shall be final and binding on both parties.

1. The waiver by either party of any rights provided in this Article is not a waiver of that right or other rights at a later date.

*Accepted for inclusion fall 2015*.

Note:

Contract may include additional Run-off Reinsurer remedies such as limited offset rights and Company option to litigate.

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BRMA 60C

RUN-OFF REINSURER

A. “Run-off Reinsurer” shall mean any [*Subscribing Reinsurer*] that experiences any of the circumstances set forth in [*subparagraphs \_\_\_, \_\_\_, \_\_\_, or \_\_\_ of paragraph \_\_\_*] of the [*Special Termination Article*].

B. Notwithstanding any other provision of this [*Contract*], if at any time a [*Subscribing Reinsurer*] becomes a Run-off Reinsurer, the [*Company*] may elect, by giving written notice to the Run-off Reinsurer at any time thereafter, that all or any of the following shall apply to the Run-off Reinsurer’s participation:

1. If the Run-off Reinsurer fails to pay or raise a query concerning a claim within [*thirty (30) business*] days of billing, the Run-off Reinsurer is estopped from denying such claim and must pay such claim immediately.

* 1. An interest penalty of 1.50% per month shall apply to any balance subject to the [*Late Payments Article*], compounded monthly back to the date of the billing.

*Accepted for inclusion fall 2015*.

Notes:

* The language in brackets and italics should be tailored to ensure consistency with terms used and articles referenced in the particular contract. With respect to paragraph B.1, the number of days are adjustable as needed.
* This clause assumes there is an article or section in the reinsurance contract addressing special termination. Other clauses should be referenced where the contract lacks special termination provisions.
* Paragraph A ties a reinsurer’s status as a “Run-off Reinsurer” to one or more events set forth in the Special Termination Article. The occurrence of any one of the specified events triggers the “Run-off Reinsurer” designation.
* The items identified in paragraphs B.1 and B.2 do not apply automatically. Either or both may be elected at the reinsured’s option. Note the reinsured must notify the reinsurer, in writing, if the reinsured intends to exercise either or both options.

* Paragraph B.2 should cross-reference the relevant contract provisions concerning interest payments on outstanding balances due from the reinsurer. Interest payments are often addressed in Articles entitled “Late Payments” and “Remittance – Interest on Late Payments.”

BRMA 60D

RUN-OFF REINSURER

A. “Run-off Reinsurer” shall mean any [*Subscribing Reinsurer*] that has ceased underwriting operations.

B. Notwithstanding any other provision of this [*Contract*], if at any time a [*Subscribing Reinsurer*] becomes a Run-off Reinsurer, the [*Company*] may elect, by giving written notice to the Run-off Reinsurer at any time thereafter, that all or any of the following shall apply to the Run-off Reinsurer’s participation:

1. If the Run-off Reinsurer fails to pay or raise a query concerning a claim within [*thirty (30) business*] days of billing, the Run-off Reinsurer is estopped from denying such claim and must pay such claim immediately.

* 1. An interest penalty of 1.50% per month shall apply to any balance subject to the [*Late Payments Article*], compounded monthly back to the date of the billing.

*Accepted for inclusion fall 2015*.

Notes:

* This clause is an alternative to BRMA 60C for use in contracts that do not provide for special termination. The language in brackets and italics should be tailored to ensure consistency with terms used and articles referenced in the particular contract.
* The “Run-off Reinsurer” designation is based on a specific definition in paragraph A.