

Policy Wording



Comprehensive Crime Insurance



Bring on tomorrow



This Policy is issued / insured by AIG Australia Limited, ABN 93 004 727 753 AFSL 381686, Level 12, 717 Bourke Street, Docklands, VIC 3008

Issuing Office: Issuing Office Address

This document contains your Insurance Policy terms, Provisos, Exclusions and Conditions. It is important that you read and understand it and retain it in a safe place.



Introduction

AIG Financial Institutions Practice

AIG's international insurance division's Financial Institutions Practice understands the complex challenges financial institutions face and cuts through the complexity with innovative insurance and financial solutions that enable financial institutions to optimally manage risk and capital. As part of the world's leading international insurance organization, we offer an unsurpassed array of insurance and financial products for financial institutions of all types outside of the U.S. and Canada, including banks, mutual funds, hedge funds, private equity/investment firms, venture capital firms, brokers/dealers, insurance companies, investment companies and real estate investment trusts.

Core advantages set us apart in the marketplace:

- Underwriting experience, commitment, capacity and product breadth
- Global reach and local service, with operations in over 80 countries with 10 regions and 17,000 employees
- Local claims expertise worldwide

Code of Practice

The **Insurer** is a signatory to the General Insurance Code of Practice. This aims to raise the standards of practice and service in the insurance industry, improve the way that claims and complaints are handled and help people better understand how general insurance works. Information brochures on the Code are available upon request.

Privacy Notice

This notice sets out how AIG Australia Limited (AIG) collects, uses and discloses personal information about:

- **you, if an individual; and**
- **other individuals you provide information about.**

Further information about our Privacy Policy is available at www.aig.com.au or by contacting us at australia.privacy.manager@aig.com or on 1300 030 886.

How we collect your personal information

AIG usually collects personal information from you or your agents.

AIG may also collect personal information from:

- Our agents and service providers;
- other insurers;
- people who are involved in a claim or assist us in investigating or processing claims, including third parties claiming under your policy, witnesses and medical practitioners;
- third parties who may be arranging insurance cover for a group that you are a part of;
- providers of marketing lists and industry databases; and
- publically available sources.



Why we collect your personal information

AIG collects information necessary to:

- underwrite and administer your insurance cover;
- maintain and improve customer service; and
- advise you of our and other products and services that may interest you.

You have a legal obligation under the Insurance Contracts Act 1984 to disclose certain information. Failure to disclose information required may result in AIG declining cover, cancelling your insurance cover or reducing the level of cover, or declining claims.

To whom we disclose your personal information

In the course of underwriting and administering your policy we may disclose your information to:

- entities to which AIG is related, reinsurers, contractors or third party providers providing services related to the administration of your policy;
- banks and financial institutions for policy payments;
- assessors, third party administrators, emergency providers, retailers, medical providers, travel carriers, in the event of a claim;
- other entities to enable them to offer their products or services to you; and
- government, law enforcement, dispute resolution, statutory or regulatory bodies, or as required by law.

AIG is likely to disclose information to some of these entities located overseas, including in the following countries: United States of America, United Kingdom, Singapore, Malaysia, the Philippines, India, Hong Kong, New Zealand as well as any country in which you have a claim and such other countries as may be notified in our Privacy Policy from time to time.

You may request not to receive direct marketing communications from AIG.

Access to your personal information

Our Privacy Policy contains information about how you may access and seek correction of personal information we hold about you. In summary, you may gain access to your personal information by submitting a written request to AIG.

In some circumstances permitted under the Privacy Act 1988, AIG may not permit access to your personal information. Circumstances where access may be denied include where it would have an unreasonable impact on the privacy of other individuals, or where it would be unlawful.

Complaints

Our Privacy Policy also contains information about how you may complain about a breach of the applicable privacy principles and how we will deal with such a complaint.

Consent

If applicable, your application includes a consent that you and any other individuals you provide information about consent to the collection, use and disclosure of personal information as set out in this notice.



Copyright

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Policy Schedule

Comprehensive Crime Insurance for Financial Institutions

Policy Number: >

Item 1.	Policyholder	>	
	Address	Address Line 1	>
	Privacy Notice	Address Line 2	>
		State	.
			Post Code >
Item 2.	Policy Period	From: >	To: >
		4.00 P.M. at the Policyholder's Main Address	
Item 3.	Covers	Wrongful Acts of Employees	Included
		Premises and Transit	Included
		Fraud	Included
		Electronic Crime	Included
Item 4.	Extensions	Automatic Subsidiary	Not Included
		Cash Letter	Not Included
		Defence Costs	Not Included
		Discovery Period	Not Included
		Extortion/Kidnap Response	Not Included
		Funds Erroneously Transferred	Not Included
		Identify Fraud	Not Included
		Interest Receivable or Payable	Not Included
		Loss Establishment Costs	Not Included
		Lost Instruments	Not Included
		New Facilities	Not Included
		Program Audit Expenses	Not Included
		Stop Payment Order Liability	Not Included
Item 5.	Limit of Liability	\$>	
		Extortion/Kidnap Response	\$1,000,000 or the Limit of Liability (whichever is the lesser)
		Funds Erroneously Transferred	\$1,000,000 or the Limit of Liability (whichever is the lesser)
Item 6.	Sub-Limit of Liability	Identity Fraud	\$500,000 or the Limit of Liability (whichever is the lesser)
		Interest Receivable or Payable	25% of the Limit of Liability
		Loss Establishment Costs	10% of the Limit of Liability
		Program Audit Expenses	\$1,000,000 or the Limit of Liability (whichever is the lesser)



Schedule (Continued)

		US Loss	\$
		Non-US Loss	\$
Item 7.	Retention	Extension 2.2 ('Cash Letter')	\$
		Extension 2.7 ('Identity Fraud')	\$
		Extension 2.13 ('Stop Payment Order Liability')	\$
Item 8.	Premium	Premium:	\$
		Stamp Duty:	\$
		GST:	\$
		Total payable:	\$
Item 9.	Insurer	AIG Australia Limited ABN 93 004 727 753 AFSL 381686	
Item 10.	Claim Notices	Financial Lines Claims Manager AIG Level 19 2 Park Street, Sydney, NSW, 2000, Australia Telephone: 1300 030 886 Facsimile: 1300 634 940	
Item 11.	Public Relations Consultants	Edelman Melbourne Pty Ltd Suite 422, 1 Queen's Road Melbourne VIC 3004 Telephone: +613-9863-7625 Facsimile: +613-9863-7630	
Item 12.	Security Consultants	NYA International Ltd +1 (817) 826-7000	
		<i>Reference & Description</i>	<i>Effective Date</i>
Item 13.	Endorsements		

Signed for and on behalf of the Insurer _____

Date of Policy Issuance >

Policy Wording



Comprehensive Crime Insurance for Financial Institutions

In consideration of the payment of the premium and in reliance upon the **Submission**, the **Insurer** and the **Policyholder** agree as follows.

1. Covers

The **Insurer** shall indemnify the **Insured** for **Loss Discovered** during the **Policy Period** and reported to the **Insurer** as soon as practicable during the **Policy Period**, resulting directly from:

1.1 Wrongful Acts of Employees

any **Wrongful Act** of any **Employee**.

1.2 Premises and Transit

- (i) physical loss of, damage to or destruction of **Property**:
 - (a) anywhere by any means (other than as covered by paragraphs (b) or (c) below);
 - (b) while in the possession of a customer of the **Insured** or a representative thereof, whilst on the **Insured's Premises**; or
 - (c) due to false pretences or deception as to the identity of any natural person physically present at the **Insured's Premises**;
- (ii) **Diminution of Security Rights**;
- (iii) damage to **Office Contents** caused by an **Illegal Act** or by vandalism or malicious mischief; or
- (iv) damage to any office of the **Insured** caused by an **Illegal Act** or damage to **Premises** by vandalism or malicious mischief.

1.3 Fraud

- (i) the **Insured**, or any **Financial Organisation** acting on their behalf, having acted or relied upon:
 - (a) any **Forged, Fraudulently Altered, or Counterfeit**:
 - (1) **Document**;
 - (2) **Instruction**;
 - (3) **Security**;
 - (4) currency; or
 - (5) **Corporate Card Application**; or
 - (b) any **Security** which has been lost or stolen;
- (ii) the **Insured** having acted upon any **Mortgage Instrument** or any insurance policy (including an endowment) which proves to have been **Faulty**; or
- (iii) any **Fictitious Payee Cheque, Cheque Procured by Impersonation, or Fraudulent Payroll Cheque** made or drawn by or drawn upon the **Insured** or any **Financial Organisation**, which has been **Forged** or **Fraudulently Altered**.

1.4 Electronic Crime

- (i) **Computer Fraud**;
- (ii) **Telephone Toll Fraud**; or
- (iii) **Computer Virus Damage**.

2. Extensions

2.1. Automatic Subsidiary

“**Subsidiary**” shall include all **Automatic Subsidiaries**.

2.2. Cash Letter

The **Insurer** shall indemnify the **Insured** for:

- (i) physical loss of or damage to **Cancelled Items** in transit between offices of the **Insured**, or between an **Insured’s** central data processor of **Cheques** or clearing house and any office of the **Insured**; and
- (ii) any additional **Employee** expenses incurred by the **Insured** in identifying the depositors of such lost or damaged **Cancelled Items** as detailed in paragraph (a) above, or in assisting depositors in obtaining duplicates thereof, following the loss of or damage to **Cancelled Items** as specified in (a) above;

provided always that such indemnity under this Extension applies only in respect of physical loss of or damage to **Cancelled Items** which is **Discovered** during the **Policy Period**. The **Insurer** shall have no liability to indemnify the **Insured** under this extension unless the **Insured** shall make and retain, for a period of no less than 60 days from date of transit, a permanent electronic record of each **Cancelled Item**.

2.3. Defence Costs

The **Insurer** shall indemnify the **Insured** for reasonable legal fees, costs and expenses incurred and paid by an **Insured** with the prior written consent of the **Insurer** in the defence of any demand, claim, suit or legal proceeding which the **Insured** establishes results directly from a **Loss** covered under this policy, provided always that:

- (i) there is no duty upon the **Insurer** to advance any legal fees, costs or expenses to the **Insured** prior to the conclusion of the demand, claim, suit or legal proceeding;
- (ii) such legal fees, costs and expenses are not recoverable from any other party; and
- (iii) such original **Loss** shall be in excess of the **Retention**.

2.4. Discovery Period

If this policy is neither renewed nor replaced with similar cover at the expiry of the **Policy Period**, the **Policyholder** shall be entitled to a **Discovery Period** of:

- (i) 30 days, granted automatically with no additional premium payable; or
- (ii) 12 months, upon payment of an additional premium of 100% of the annual premium in effect immediately prior to the expiry of the **Policy Period**.

The automatic 30 day **Discovery Period** shall be part of and not in addition to any further period.

2.5. Extortion/Kidnap Response

In the event of an **Extortion, Kidnapping, Hijacking or Wrongful Detention** during the **Policy Period**, the **Insurer** shall pay for **Extortion/Kidnap Response Costs** incurred through the **Security Consultants** or **Public Relations Consultants** after they have been contacted at the address specified in the Schedule. This Extension shall not be subject to the **Retention**.

2.6. Funds Erroneously Transferred

The **Insurer** shall indemnify the **Insured** for **Loss Discovered** during the **Policy Period** resulting directly from theft by a third party of **Property** erroneously directed or erroneously transferred by the **Insured**, or by a **Financial Organisation** acting on their behalf. Cover under this Extension is provisional on the **Insured** exhausting every reasonable course of action to secure recovery of such **Property**.

Extensions (Continued)

2.7 Identity Fraud

The **Insurer** shall indemnify the **Insured** for:

- (i) **Stolen Identity Expenses;**
- (ii) **Civil Defence Costs or Criminal Defence Costs;**
- (iii) **Investigative Specialist Fees;**
- (iv) **Reconstitution Costs;** and
- (v) **Reputation Recovery Expenses;**

resulting from an **Identity Fraud** upon (a) **Corporate Identity**; or (b) **Personal Identity**.

2.8 Interest Receivable or Payable

The **Insurer** shall indemnify the **Insured** for the amount of any interest which would have been receivable but for a **Loss** covered under this policy or which becomes payable by an **Insured** resulting directly from a **Loss** covered under this policy provided that the **Insurer's** liability for such interest receivable or payable is calculated by applying the average of the Reserve Bank of Australia base rate in force between the time of sustaining such **Loss** and the date of **Discovery** of such **Loss**.

2.9 Loss Establishment Costs

The **Insurer** shall pay, in addition to the **Limit of Liability**, the reasonable fees and expenses of a **Fraud Investigator** retained by the **Policyholder** to investigate, prove and report a **Loss** covered under this policy. No **Retention** amount shall be applied to fees or expenses paid under this Extension.

2.10 Lost Instruments

The **Insurer** shall indemnify the **Insured** for such sum, not exceeding the **Limit of Liability**, which the **Insured** is required to pay under any indemnity given by the **Insured** to an issuer of a Lost Instrument Bond obtained with the **Insurer's** prior consent, to secure the issuance of duplicates of **Securities**, the loss of which is covered by this policy.

2.11 New Facilities

The **Insurer** shall indemnify the **Insured** for **Loss** of any newly created branches, offices, **Automated Devices, Plans** or other assets formed, established or relocated by the **Policyholder**, either directly or indirectly through one or more of its **Subsidiaries**, during the **Policy Period**, other than by merger with, or consolidation with, or purchase of, or other acquisition of the assets of another business. Cover under this Extension is provisional on the internal controls and procedures, and security protections of the newly created branches, offices, **Automated Devices, Plans** or other assets being at least equivalent to those declared in the **Submission** to the **Insurer** at inception.

2.12 Program Audit Expenses

The **Insurer** shall indemnify the **Insured** for reasonable expenses incurred or reasonable fees paid by an **Insured** with the prior written approval of the **Insurer**, for the verification or reconstitution or removal of **Electronic Computer Programs** of which the fraudulent or malicious preparation, modification or deletion has given rise to a **Loss** payable by the **Insurer** under this policy. No further **Retention** amount shall be applied to expenses incurred or fees paid under this extension other than that **Retention** amount applicable to such original **Loss**.

2.13 Stop Payment Order Liability

The **Insurer** shall indemnify the **Insured** for **Loss** incurred as a result of an **Insured**, or a **Financial Organisation** acting on its behalf, having:

- (i) complied with or failed to comply with the request of any customer of the **Insured**, or an authorised agent of such customer, to stop payment on any **Cheque** or **Draft** made or drawn upon or against the **Insured** by such customer or by its authorised agent; or
- (ii) refused to pay any **Cheque** or **Draft** made or drawn upon or against the **Insured** by a customer of the **Insured** or by an authorised agent of such customer; and for which **Loss** the **Insured** is legally liable to its customer.

3. Exclusions

The **Insurer** shall not be liable to make any payment of:

3.1 Authorised Access

Loss resulting from the input of **Electronic Data** at an authorised electronic terminal by a customer, or another person who had authorised access to the customer's authentication mechanism, unless:

- (i) such customer was accessing the **Insured's Computer System** for a purpose not pre-agreed by the **Insured** and such act was committed with the intent to cause the **Insured** to sustain a **Loss**; or
- (ii) such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees').

3.2 Contractual Liability

any sum arising out of, based upon or attributable to a liability assumed or accepted by the **Insured** under contract or agreement, except a liability which would have attached to the **Insured** in the absence of such contract or agreement.

3.3 Costs, Fees and Expenses; Legal Proceedings

costs, fees or other expenses incurred in establishing the existence or amount of **Loss** covered under this policy (except to the extent such sums are covered under Extension 2.9 ('Loss Establishment Costs')), or in prosecuting or defending any legal proceeding, or incurred as a party to any legal proceeding, except as provided for under Extension 2.7 ('Identity Fraud') or Extension 2.3 ('Defence Costs').

3.4 Credit Risks

Loss resulting from the complete or partial non-payment of or default upon any **Loan**, unless such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees'), Cover 1.3 ('Fraud') or Cover 1.4 ('Electronic Crime').

3.5 Directors/Partners Infidelity

Loss resulting wholly or partially from any **Wrongful Act** of any director or partner of the **Insured**, except to the extent that the director is deemed to be an **Employee** under part (iii) of Definition 4.28 ('Employee').

3.6 Discovery Outside the Policy Period

Loss Discovered prior to the inception date of the **Policy Period** or subsequent to the expiry of the **Policy Period**.

3.7 Employee Infidelity

Loss resulting directly or indirectly from any **Wrongful Act** of any **Employee** unless such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees').

3.8 Extortion/Kidnap

Loss due to or payment for extortion or kidnap and ransom unless such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees') or under Extension 2.5 ('Extortion/Kidnap Response').

3.9 Fines, Penalties or Damages

finest, penalties or damages of any type except direct compensatory damages arising out of a **Loss** covered under this policy.

Exclusions (Continued)

3.10 Fraudulent Features in Electronic Computer Programs

Loss resulting from fraudulent features contained in **Electronic Computer Programs** developed for sale to, or that were sold to, multiple customers at the time of their acquisition from a vendor or consultant unless:

- (i) no other purchaser of the **Electronic Computer Programs** has sustained an insurable **Loss** resulting from such fraudulent features during the period of 60 days from the date of **Discovery**;
- (ii) at the time of **Loss** such fraudulent features were contained solely on the **Electronic Computer Programs** of the **Insured** and not on those sold to any other customer; or
- (iii) such fraudulent features were inserted subsequent to the date of acquisition.

3.11 Indirect Loss

- (i) indirect or consequential loss of any nature;
- (ii) any sum representing loss or deprivation of income or profits (including interest and dividends), except as provided under part (b) of Cover 1.2 ('Premises and Transit') or Extension 2.8 ('Interest Receivable or Payable'); or
- (iii) any sum arising out of, based upon or attributable to:
 - (a) business interruption (including loss of computer time or use);
 - (b) mechanical, electronic or software failure, faulty construction, error in design, latent defect, wear or tear, gradual deterioration, electrical disturbance, **Electronic Data Processing Media** failure or breakdown or any malfunction or error in programming or errors or omissions in processing; or
 - (c) loss of or damage to any property whatsoever by reason of wear, tear, gradual deterioration, moth or vermin.

3.12 Insurance/Reinsurance

Loss resulting from the **Insured** having arranged or failed to arrange a contract of insurance, reinsurance or what purports to be a contract of insurance or reinsurance, or a **Loss** arising out of the **Insured's** involvement with, whether as an agent or principal, insurance or reinsurance of any kind, except to the extent that premium payments or claims payments are embezzled by an **Employee** and such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees').

3.13 Kiting and Cross-Firing

Loss resulting wholly or partially from payments or withdrawals involving items received by the **Insured** which are not finally paid for any reason, unless such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees'), Cover 1.3 ('Fraud') or Cover 1.4 ('Electronic Crime'), or under Extension 2.6 ('Funds Erroneously Transferred').

3.14 Plastic Cards

Loss resulting from the use or purported use of any **Plastic Cards** issued by, or purporting to have been issued by, the **Insured** or another, except to the extent that:

- (i) such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees'); or
- (ii) there is a loss of **Property** in or at an **Automated Device** and such loss is covered under part (i)(a) of Cover 1.2 ('Premises and Transit').

Exclusions (Continued)

3.15 Property Damage

any sum attributable to loss, damage or destruction:

- (i) of or to any office, premises or real estate, however caused; unless covered under Cover 1.2 ('Premises and Transit');
- (ii) of or to any property as a result of fire, explosion, implosion or collapse, other than **Loss of Property** due to a malicious act of an **Employee**;
- (iii) as a result of looting, or any act of God or nature, including hurricane, typhoon, earthquake, or subterranean fire; or
- (iv) arising out of, based upon or attributable to ionising radiation or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel, or the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

3.16 Property in the Mail

Any sum attributable to loss of **Property** while in the custody of any postal service, other than **Property** sent via registered mail, recorded delivery or courier; unless such loss is covered under Cover 1.1 ('Wrongful Acts of Employees').

3.17 Proprietary Information, Trade Secrets and Intellectual Property

Loss or the actual or alleged plagiarism of, or arising directly or indirectly from the accessing of, any confidential information (including but not limited to **Trade Secrets, Electronic Computer Programs**, customer information, patents, trademarks, trade names or copyrights), except to the extent that any such confidential information is used to support or facilitate the commission of an act covered by this policy.

3.18 Safe Deposit Contents

loss of or damage to any items or **Property**;

- (i) contained in a customer's safe deposit box; or
- (ii) held by the **Insured** in safe custody on behalf of a customer of the **Insured** (other than identifiable **Securities** actually held by the **Insured** for such customers).

3.19 Travellers Cheques, Bills of Lading and Similar Documents

Loss resulting directly or indirectly from any items which are or purport to be travellers' cheques, travellers' **Letters of Credit**, bills of lading, shipping documents, warehouse receipts, trust receipts, accounts receivable, or any other bill, document or receipt similar in nature or effect or serving a similar purpose, unless such **Loss** is covered under Cover 1.1 ('Wrongful Acts of Employees') or Cover 1.2 ('Premises and Transit').

3.20 War and Terrorism applicable to the "Premises and Transit" Cover only

Loss or damage under Cover 1.2 ('Premises and Transit') arising out of or relating to **War** or **Terrorism**. This exclusion shall not apply to **Loss** under Cover 1.2 ('Premises and Transit') which results from any **Illegal Act** of any natural person arising out of or relating to such natural person's actual or alleged involvement in **Terrorism** or connection to or association with others who are involved in or connected to **Terrorism**.

4. Definitions

4.1 Automated Clearing House

any corporation or association which operates an electronic clearing and transfer mechanism for the transfer of pre-authorised debits and credits between **Financial Organisations** on behalf of **Financial Organisations'** customers.

4.2 Automated Device

a machine, which disburses bank notes or accepts deposits, cash, **Cheques** or **Drafts**, or makes cash advances on **Plastic Cards**.

4.3 Automatic Subsidiary

any entity which, during the **Policy Period**, the **Policyholder** either directly or indirectly through one or more of its **Subsidiaries**, acquires or creates and:

- (i) controls the composition of the board of directors;
- (ii) controls more than half of the shareholder or equity voting power; or
- (iii) holds more than half of the issued share capital or equity;

provided such entity, at the date of such acquisition or creation:

- (a) has total gross assets under management of less than 20% of the **Insured's** total consolidated gross assets as recorded in the latest audited financial statements of the **Policyholder** prior to inception of the policy;
- (b) has not had a **Loss** within the past 5 years with a quantum greater than the **Retention**; and
- (c) does not offer any material deviation to the **Insured's** business as described to the **Insurer** at the inception of this policy; and
- (d) does not generate more than 50 per cent of their gross income via:
 - (A) the **Internet**; or
 - (B) factoring/invoice discounting.

If the newly acquired or created entity fails to meet any or all of the conditions above, the **Policyholder** may request an extension of this policy for such entity provided the **Policyholder** shall give the **Insurer** sufficient details to permit the **Insurer** to assess and evaluate the **Insurer's** potential increase in exposure. The **Insurer** shall be entitled to amend the policy terms, definitions, exclusions and provisions in respect of such entity, during the **Policy Period**, including the charging of a reasonable additional premium to reflect the increase in exposure. Such entity is deemed to be an **Automatic Subsidiary** for 45 days from the date of acquisition or creation, provided that during such time the **Policyholder** shall provide sufficient details as required by the **Insurer**.

4.4 Bill of Exchange

an unconditional order in writing, addressed by one person to another, signed by the addresser, requiring the addressee to pay on demand or at a fixed or determinable future time a sum certain in money to or to the order of a specified person, or to bearer.

4.5 Cancelled Item

any cancelled **Cheques**, cancelled **Drafts** or cancelled credit card receipts.

4.6 Central Depository

any clearing corporation where, as the direct result of an electronic clearing and transfer mechanism, entries are made evidencing an increase or reduction in an account, an obligation, a number of shares or the rights of any party.

4.7 Certificate of Deposit

a written acknowledgement by a **Financial Organisation** of a deposit with a promise to pay such deposit to any person or to his order.

Definitions (Continued)

4.8 Cheque

a **Bill of Exchange** drawn on a **Financial Organisation** directing it to pay the sum specified on demand.

4.9 Cheque Procured by Impersonation

any **Cheque** or **Draft** procured in a face to face transaction with the **Insured**, or any **Financial Organisation**, by anyone impersonating another and made or drawn payable to the one so impersonated and endorsed by anyone other than the one so impersonated.

4.10 Civil Defence Costs

reasonable and necessary legal fees, costs and expenses incurred by the **Insured**, with the **Insurer's** prior written consent, when applying for civil proceedings to be dismissed or withdrawn on the basis that the alleged liability resides with the perpetrator of the **Identity Fraud**, and not the **Insured** or its directors or officers.

4.11 Computer Fraud

- (i) the **Impairment** of any **Electronic Data, Uncertificated Security, Electronic Computer Programs, Electronic Communications** or **Voice Initiated Instructions** upon which the **Insured**, or any **Financial Organisation** acting on their behalf, has acted or relied; or
- (ii) an **Automated Clearing House** or a **Financial Organisation** having acted or relied upon any **Electronic Communications** or **Voice Initiated Instructions** either purporting to have been, but were not, directed by the **Insured**, or the **Impairment** of the same.

4.12 Computer System

a computer and all input, output, processing, storage or communication facilities, which are connected, directly or indirectly, to such a device.

4.13 Computer Virus Damage

the loss or destruction of or amendment to or damage to any **Electronic Data** upon which the **Insured** or any **Service Bureau** has acted or relied due to any unauthorised program or code fraudulently or maliciously created and/or distributed through the **Computer System** or networks of the **Insured** or a **Service Bureau**.

4.14 Corporate Card Application

any document required in conjunction with any credit card or corporate charge card issued to the **Insured** or at the request of the **Insured** for use by the **Insured's** directors, officers or **Employees**.

4.15 Corporate Identity

the publicly-available data on file or within the **Computer System** of an **Insured** or of an official registry or of any other party which relates to the **Insured's** formation and genuine identity, including memoranda and articles of association, statutorily-required returns or filings, official records of regulatory authorisations, licences or permits and records of legal compliance or infractions, and the purpose of which is to publicly document, authenticate or prove the existence and good standing of the entity or which may be relied upon by investors, **Financial Organisations**, vendors, credit reporting authorities and others in assessing and establishing the **Insured's** credit ratings and/or good standing.

4.16 Counterfeit

an imitation of any instrument which, because of the quality of the imitation, the **Insured** believes is the authentic original instrument. Fictitious instruments, which merely contain fraudulent misrepresentation of fact and are genuinely signed or endorsed are not **Counterfeit**.

4.17 Criminal Defence Costs

reasonable and necessary legal fees, costs and expenses incurred by the **Insured**, with the **Insurer's** prior written consent, when applying for criminal proceedings to be dismissed or withdrawn on the basis that the alleged offence was not committed by the **Insured** but by the perpetrator of the **Identity Fraud**.

Definitions (Continued)

4.18 Diminution of Security Rights

loss of subscription, redemption, conversion or deposit privileges through the misplacement, loss of or damage to any **Security** or **Electronic Data** representing a **Security**, or **Electronic Data Processing Media** upon which such **Electronic Data** is stored or recorded.

4.19 Discovered or Discovery

when any **Responsible Person** first becomes aware of or had any knowledge of any act, omission or event which could reasonably be foreseen to give rise to a **Loss** covered by this policy, even though the exact amount or details of such **Loss**, act, omission or event are not known at the time of **Discovery**. Such **Discovery** shall constitute **Discovery** by every **Insured**.

4.20 Discovery Period

a period immediately following expiry of the **Policy Period** during which written notice may be given to the **Insurer** of any **Loss Discovered** during such period of time for any **Loss** sustained prior to the end of the **Policy Period** and otherwise covered by this policy.

4.21 Document

any **Cheque**, **Bill of Exchange**, **Draft**, **Certificate of Deposit**, **Letter of Credit**, **Promissory Note**, withdrawal order or receipt for the withdrawal of funds or **Property**, money order, orders upon public treasuries, or any similar instruments of value serving the same purpose.

4.22 Draft

a **Bill of Exchange** payable on demand drawn by or on behalf of a **Financial Organisation** upon itself.

4.23 Electronic Communications

the communications that have been transmitted electronically through an **Electronic Communication System**, via the **Internet**, by **Tested** communication, or through communications recorded on **Electronic Data** or **Electronic Data Processing Media**.

4.24 Electronic Communications System

the **Electronic Communication** operations by automated communications systems or any **Computer Systems** which provide the **Insured**, or any **Financial Organisation** acting on their behalf, with direct access to the **Computer System** of another **Financial Organisation** and vice versa, including cash management systems and other computer-based systems which allow dematerialised communications between the **Insured** and other parties.

4.25 Electronic Computer Programs

the computer programs which include facts or statements converted to a form usable in a **Computer System** that act upon **Electronic Data**.

4.26 Electronic Data

the facts or information converted to a form usable in a **Computer System** and which is stored on **Electronic Data Processing Media** for use by **Electronic Computer Programs**.

4.27 Electronic Data Processing Media

the media whether magnetic or optical on which **Electronic Data** is recorded.

4.28 Employee

any

- (i) natural person under a contract of employment (whether full-time, part-time or temporary) with the **Insured**;
- (ii) natural person working under the direct control and supervision of the **Insured**;
- (iii) director or officer of the **Insured** when performing acts coming within the scope of the usual duties of an employee of the **Insured** or while acting as a member of a committee duly elected or appointed by resolution of the board of directors of the **Insured** to perform specific acts, as distinguished from general directorial acts, on behalf of the **Insured**;

Definitions (Continued)

- (iv) trustee, fiduciary, administrator, or officer of any **Plan**;
- (v) ex-employee, for a period not exceeding 60 days following the termination of their employment with the **Insured**, other than when such termination is a result of an act covered under this policy;
- (vi) solicitor, other than a sole practitioner, retained by the **Insured**, or any employee of such solicitor, whilst providing legal services exclusively for the **Insured**;
- (vii) company or person(s) authorised by a written contract with the **Insured** to perform accounting, data processing of **Cheques**, payroll or computing services outsourced by the **Insured**; or
- (viii) employee whom the **Insured** is unable to identify by name, but whose **Wrongful Act** has caused a **Loss** covered under this policy, provided that the **Insured** proves beyond reasonable doubt that the **Loss** was due to the act of such employee.

The term **Employee** does not mean any independent broker, independent financial adviser, or any similar agent or independent representative remunerated on a sales or commission basis unless specifically agreed by the **Insurer** and endorsed to this policy.

4.29 Extortion

a communicated threat:

- (i) to do bodily harm to an **Insured Person**; or
- (ii) to damage or destroy any property (including **Computer Systems** and **Electronic Computer Programs**) or **Premises**, fixtures and fittings, or other property for which the **Insured** is legally liable other than payment demands following the threat to physically damage, destroy, corrupt (including by malicious **Electronic Communication**) or take control of an **Insured's Computer System, Electronic Data** or website, or reveal **Trade Secrets** and any other proprietary information of the **Insured** contained within their **Computer System** or electronic database.

4.30 Extortion/Kidnap Response Costs

the reasonable fees and expenses incurred in response to any **Extortion, Kidnapping, Hijacking** or **Wrongful Detention**, including:

- (i) the amount paid by the **Insured** or **Insured Person** as reward to an informant for information relevant to the **Kidnapping**;
- (ii) travel costs of a **Kidnapping** victim to join their immediate family upon their release, and the travel costs of an **Employee** to replace the **Kidnapping** victim;
- (iii) travel costs to evacuate, or hotel costs of, an **Insured Person** who is the victim of a **Kidnapping** or **Extortion**;
- (iv) reasonable and necessary medical services and hospitalisation costs incurred by an **Insured Person** following or as a result of the **Kidnapping** or the **Extortion**, including treatment by a neurologist or psychiatrist, cosmetic surgery, or confinement costs (other than any medical or ancillary expenses, the payment of which would constitute "health insurance business" as defined under the National Health Act 1953 (Cth));
- (v) reasonable and necessary fees and expenses of:
 - (a) independent forensic analysts engaged by the **Insured**;
 - (b) independent qualified interpreter engaged by the **Insured**;
 - (c) **Security Consultants**;
 - (d) **Public Relations Consultants**.

No fees, costs or expenses are payable under this Extension in response to an **Extortion, Kidnapping, Hijacking** or **Wrongful Detention** incident in Afghanistan, Central and South American countries, India (Kashmir), Iraq, Nigeria, Pakistan, Philippines, Chechnya, Iran, Sudan, Cuba and Myanmar.

Definitions (Continued)

4.31 Facsimile

a system of transmitting written documents by means of electronic signal over telephone lines to equipment maintained by the **Insured** within a secure environment for the purpose of reproducing a copy of said document; it does not mean **Electronic Communications**.

4.32 Faulty

defective by reason of:

- (i) the signature on the **Mortgage Instrument** of any person having been obtained through trick, artifice, fraud or false pretences;
- (ii) the signature on the recorded deed conveying real property to the mortgagor or grantor of the deed of trust or mortgage having been obtained by or on behalf of such mortgagor or grantor through trick, artifice, or false pretences; or
- (iii) **Forgery or Fraudulent Alteration** of, on or in:
 - (a) any requested change of beneficiary in any insurance policy (including endowments) issued by the **Insured**;
 - (b) any policy loan agreement made by the **Insured**; or
 - (c) an assignment to the **Insured** of any insurance policy (including endowments).

4.33 Fictitious Payee Cheque

any **Cheque** or **Draft** made or drawn in the name of the **Insured**, payable to a fictitious payee and endorsed in the name of such fictitious payee.

4.34 Financial Organisation

- (i) any bank, credit institution, financial institution, undertaking for collective investment in **Securities**, investment firm or similar entity;
- (ii) a **Central Depository** in connection with the purchase, sale, transfer or pledge of an **Uncertificated Security**; or
- (iii) any person or organisation with which the **Insured** has a written agreement for the provision of purchasing services, safekeeping, registration and entitlement records in connection with **Securities**.

4.35 Forgery or Forged

the hand-written signing or endorsing of the name of a genuine person or a copy of said person's signature without authority and with intent to deceive; it does not include the signing or endorsing in whole or in part of one's own name, with or without authority, in any capacity, for any purpose.

Mechanically or electronically produced or reproduced signatures are treated the same as hand-written signatures.

Any endorsement upon a **Document** of a fictitious name, or an endorsement upon a **Document** procured in a face to face transaction of the name of anyone impersonated, shall be deemed to be a **Forged** endorsement.

4.36 Fraud Investigator

any independent fraud investigator nominated by the **Policyholder** who does not have a clear conflict of interest and who is approved by the **Insurer**. Any person or entity listed as a "**Fraud Investigator**" by endorsement to this policy is deemed to be pre-approved by the **Insurer**, provided there is no clear conflict of interest.

4.37 Fraudulent Alteration/Fraudulently Altered

a material alteration to an instrument for a fraudulent purpose by any person other than the person who was authorised to prepare or sign the instrument.

Definitions (Continued)

4.38 Fraudulent Payroll Cheque

any payroll **Cheque, Draft** or payroll order made or drawn by the **Insured**, payable to the bearer as well as to the named payee and endorsed by anyone other than the named payee without authority from such payee.

4.39 Hijacking

illegal holding under duress, for a period in excess of 6 hours, of an **Insured Person**, during travel in the course of employment with an **Insured**, on or in any aircraft, motor vehicle or waterborne vessel.

4.40 Identity Fraud

the fraudulent modification, alteration or corruption, or theft of **Corporate Identity** or **Personal Identity** by an **Employee** or any other party, first sustained and **Discovered** during the **Policy Period**.

4.41 Illegal Act

any actual or attempted burglary, robbery, hold-up, theft or larceny.

4.42 Impairment

any actual or attempted fraudulent preparation, fraudulent input, fraudulent modification or fraudulent destruction.

4.43 Instruction

any written or printed instruction or advice or **Tested Facsimile** directed to the **Insured** authorising or acknowledging the transfer, payment, delivery or receipt of funds or **Property**.

4.44 Insured

the **Policyholder, Subsidiaries** and any **Plan**.

4.45 Insured Person

a director, employee or partner of an **Insured** or a relative or guest of such person with respect to the Extension 2.5 ('Extortion/Kidnap and Ransom') only.

4.46 Insurer

AIG Australia Limited ABN 93 004 727 753 as fully specified in Item 9 of the Schedule.

4.47 Internet

the worldwide public network of computers as it currently exists or may be manifested in the future, including the Internet, an intranet, an extranet or a virtual private network which allow access to the **Insured's Computer System** via the use of **Internet** service providers or any form of on-line services provider.

4.48 Investigative Specialist Fees

the reasonable fees, costs and expenses of a professional private investigation agency, incurred and paid by the **Insured** with the **Insurer's** prior written consent, to investigate the identity of the perpetrator and his or her modus operandi in connection with an **Identity Fraud**.

4.49 Kidnapping

any event or connected series of events of seizing, detaining or carrying away by force or fraud an **Insured Person**, while acting outside his country of residence in the course of employment by an **Insured**, for the purpose of demanding ransom monies.

4.50 Letter of Credit

an agreement in writing by a **Financial Organisation** made at the request of a customer that the issuer will honour **Drafts** or other demands for payment upon compliance with the conditions specified in the agreement.

4.51 Limit of Liability

the amount specified in Item 5 of the Schedule.

Definitions (Continued)

4.52 Loan

- (i) any loan or transaction in the nature of, or amounting to, a loan or extension of credit, including a lease, made by or obtained by or from the **Insured**;
- (ii) any note, account, invoice, agreement or other evidence of debt, assigned or sold by or to, or discounted or otherwise acquired by the **Insured**; or
- (iii) any payments made or withdrawals from a customer's account involving items which are not finally paid for any reason.

4.53 Loss

the direct financial loss sustained by the **Insured** as a result of any single act, single omission, or single event, or series of related or continuous acts, omissions or events. A series of related or continuous acts or omissions or events up to the time of **Discovery** shall be treated as a single act, omission or event.

Loss shall not include salaries, fees, commission, bonuses and similar employee benefits earned in the normal course of employment, including salary increases and promotions, other than bonuses, commissions or profit sharing paid to an **Employee** for a specific transaction with which such **Employee** was involved and in respect of which that **Employee** had committed a **Wrongful Act** covered under this policy.

4.54 Mortgage Instrument

any

- (i) deeds of trust or like instruments pertaining to real property;
- (ii) any mortgages upon real property and interest in real property; or
- (iii) assignments of such mortgages or interests in (ii);

in connection with any **Loan**.

4.55 Office Contents

the furnishings, fixtures, equipment, tangible computer related equipment, alarms, stationery, record books, supplies or safes and vaults, either owned by the **Insured** or for which the **Insured** is liable or the personal property of **Employees** or customers whilst on the **Insured's Premises**.

4.56 Payment

an amount paid or payable by the **Insurer** under any Cover or Extension of this policy for **Loss**, costs, fees and expenses resulting from any single act, single omission, or single event, or series of related or continuous acts, omissions or events.

4.57 Personal Identity

data as relating to a natural person's identity as a duly-appointed director or officer of the **Insured**, and the purpose of which is to publicly document, authenticate or prove the genuine identity, official status and/or good standing of such natural person.

4.58 Plan

any pension, employee benefit, welfare benefit, share saver or share option plan or charitable fund or foundation maintained by the **Insured** for the benefit of the past, present and/or future **Employees** or their respective beneficiaries, existing on or before the inception date of this policy.

4.59 Plastic Cards

credit, debit, charge, access, convenience, smart, identification or other cards similar in nature or effect.

4.60 Policy Period

the period from the inception date to the expiry date specified in Item 2 of the Schedule.

4.61 Policyholder

the entity specified in Item 1 of the Schedule.

Definitions (Continued)

4.62 Premises

the interior portion of any building owned or occupied by the **Insured** and in which they conduct their business.

4.63 Promissory Note

an unconditional promise in writing by one person to another signed by the maker engaging to pay, on demand or at a fixed or determinable future time, a sum certain in money to or to the order of a specified person or to bearer.

4.64 Property

- (i) cash (including currency, coins and banknotes), bullion, precious metals of all kinds and in whatsoever form, and articles made therefrom, jewellery, gems (including uncut gem stones), precious and semi-precious stones, stamps, postal orders, insurance policies;
- (ii) any **Document**;
- (iii) any **Security**;
- (iv) all other negotiable and non-negotiable instruments, or contracts representing money or other property (real or personal) or interests therein, and other valuable papers, including books of account and other records used by the **Insured** in the conduct of their business, in which the **Insured** has an interest, or which are held by the **Insured** for any purpose or in any capacity and whether so held gratuitously or otherwise, and whether the **Insured** are legally liable for them or not; or
- (v) **Electronic Data** which is stored or recorded upon **Electronic Processing Media**.

4.65 Reconstitution Costs

the reasonable costs of rewriting or amending the **Insured's** software programs or systems with the prior written consent of the **Insurer** where such rewriting or amending is necessary to correct the programs or amend the security codes following an **Identity Fraud**.

4.66 Reputation Recovery Expenses

the reasonable fees, costs and expenses incurred and paid by the **Insured**, with the **Insurer's** prior written consent, to procure public relations services to redress adverse publicity or reputational injury due to an **Identity Fraud**.

4.67 Responsible Person

any person appointed by an **Insured** with responsibility for monitoring or reporting **Loss**, or a director, partner, officer, departmental director, senior manager, trustee or equivalent of an **Insured**.

4.68 Retention

the applicable amount specified in Item 7 of the Schedule.

4.69 Security

- (i) stock, shares, scrip, transfers, certificates, bonds, coupons and all other types of securities (including securities held in book entry form or as a **Statement of Uncertificated Security**), **Bills of Exchange**, **Promissory Notes**, **Certificates of Deposit**, **Letters of Credit**, warrants, title deeds, deeds of trust, bearer instruments or other **Documents** and any other documents of a negotiable nature;
- (ii) original (including original counterparts) negotiable or non-negotiable agreements in writing, other than as set forth in (iii) below, having value which is, in the ordinary course of business, transferable by delivery of such agreements with any necessary endorsement or assignment; or
- (iii) original corporate, partnership or personal guarantees.



4.70 Senior Lawyer

a senior lawyer to be mutually agreed upon by the **Policyholder** and the **Insurer**, or in the absence of agreement, to be appointed by the President of the Law Society, or equivalent organisation, in the jurisdiction in which the **Loss** was incurred.

4.71 Service Bureau

a natural person, partnership or corporation authorised by written agreement with the **Insured** to perform data processing services using **Computer Systems**.

Definitions (Continued)

4.72 Statement of Uncertificated Security

a written statement of the issuer of an **Uncertificated Security** containing:

- (i) a description of the issue of which the **Uncertificated Security** is a part; and
- (ii) the number of shares or units:
 - (a) transferred to the registered owner,
 - (b) pledged by the registered owner to the registered pledgee,
 - (c) released from the pledge by the registered pledgee,
 - (d) registered in the name of the registered owner on the date of the statement, or
 - (e) subject to pledge on the date of the statement; and
- (iii) the name and address of the registered owner and registered pledgee; and
- (iv) a notation of any liens and restrictions of the issuer and any adverse claims to which the **Uncertificated Security** is or may be subject or a statement that there are no such liens, restriction or adverse claims; and
- (v) the date:
 - (a) the transfer of the shares or units to the new registered owner of the share or units is registered,
 - (b) the pledge of the registered pledgee was registered, or
 - (c) of the statement, if it is a periodic or annual statement.

4.73 Stolen Identity Expenses

the reasonable and necessary legal fees, costs and expenses incurred by the **Insured** with the **Insurer's** prior written consent and paid by the **Insured** to correct or reinstate public records.

4.74 Stolen Identity Loss

any **Civil Defence Costs** or **Criminal Defence Costs**, **Investigative Specialist Fees**, **Reputation Recovery Expenses** and/or **Stolen Identity Expenses**.

4.75 Submission

each and every signed proposal form, including the declarations, statements and representations therein, its attachments, any publicly available financial statements of the **Policyholder** or its **Subsidiaries** and all other information which is either submitted to the **Insurer** or incorporated in the proposal form by reference.

4.76 Subsidiary

any entity in which the **Policyholder**, either directly or indirectly through one or more other entities:

- (i) controls the composition of the board of directors;
- (ii) controls more than half of the shareholder or equity voting power; or
- (iii) holds more than half of the issued share capital or equity;

on or before the inception date of this policy.

An entity ceases to be a **Subsidiary** when none of the foregoing conditions applies.

4.77 System Access Codes

the access authorisation codes and barrier codes which are used to obtain access to the **Telephone System** in order to perform security functions, system administration and maintenance functions and are changed at least once every 30 days.

Definitions (Continued)

4.78 Telephone System

a private branch exchange, voice mail processor, automated callback attendant or a **Computer System** with a similar capacity, which is:

- (i) owned by or leased to the **Insured**;
- (ii) used for the direction or routing of telephone calls in a voice communication network; and
- (iii) protected by a feature to automatically terminate a caller's access to a **Telephone System** following a maximum of three unsuccessful attempts to input a **System Access Code**.

4.79 Telephone Toll Fraud

the unauthorised deliberate accessing by **Electronic Communication** or device of a **Telephone System** resulting in the **Insured** being legally liable to its telephone service courier or supplier.

4.80 Terrorism

the use or threatened use of force or violence against person or property, or commission of an act dangerous to human life or property, or commission of an act that interferes with or disrupts an electronic or communication system, undertaken by any person or group of persons, whether or not acting on behalf of or in connection with any organisation, government, power, authority or military force, when the effect is to intimidate or coerce or harm a government, the civilian population or any segment thereof, or to disrupt any segment of the economy.

"**Terrorism**" shall also include any act which is verified or recognised by the Australian Government as an act of terrorism.

4.81 Tested

a method of authenticating the contents of a communication between the **Insured** and a customer or a **Financial Organisation**, or between offices of the **Insured**, for the purpose of protecting the integrity of the communication.

4.82 Trade Secret

the information, including a formula, compilation, pattern, program, device, method, process or technique that derives independent economic value, actual or potential, from not being generally known and not readily ascertainable through proper means by another person who can obtain economic advantage from its disclosure or use.

4.83 Trading

the trading or other dealing in **Securities**, commodities, futures, options, foreign or Federal funds, currencies, foreign exchange and the like.

4.84 Transaction

any one of the following events:

- (i) the **Policyholder** consolidates with or merges into or sells all or a majority of its assets to any other person or entity or group of persons and/or entities acting in concert; or
- (ii) any person or entity, whether individually or together with any other person or persons, entity or entities becomes entitled to exercise more than 50% of the rights to vote at general meetings of the **Policyholder** or control the appointment of directors who are able to exercise a majority of votes at meetings of the board of directors of the **Policyholder**.

4.85 Ultimate Net Loss

the actual net **Loss** to the **Insured** after making proper deduction for all recoveries, including payments against principal, interest and commissions and salvages, but excluding all expenses for salaried **Employees** incurred in the investigation or adjustment of claims, actions or proceedings, unless specifically agreed by the **Insurer**.

Definitions (Continued)

4.86 Uncertificated Security

a share, participation or other interest in property, or an enterprise of the issuer or an obligation of the issuer which:

- (i) is a type commonly dealt in upon securities exchanges or markets;
- (ii) is either one of a class or series or by its terms is divisible into a class or series of shares, participations, interests or obligations; and
- (iii) (a) is not represented by any instrument;
(b) is part of a master or global certificate; or
(c) represents a paper certificate that has been surrendered by a **Financial Organisation** and which paper certificate has been combined into a master depository note and the paper certificates are immobilised;

and such **Security** is shown as an electronic entry on the account of the transferor, pledgor or pledgee at a **Central Depository**.

4.87 US Loss

Loss sustained in the United States of America, its states, localities, territories or possessions.

4.88 Voice Initiated Instructions

any telephone instruction requesting the transfer of funds or **Property** which is **Tested** or which is subject to a call back to an authorised person other than the individual initiating the transfer.

4.89 War

war, any invasion, act of foreign enemy, hostile operations (whether war has been declared or not), civil war, rebellion, revolution, insurrection, riot or civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power or martial law.

4.90 Wrongful Act

- (i) any dishonest act;
- (ii) any fraudulent act;
- (iii) any malicious act;

wherever committed, and whether committed alone or in collusion with others.

With respect to **Loans** and **Trading**, "**Wrongful Act**" only means any dishonest or fraudulent act committed with the intent to obtain improper financial gain for:

- (a) the **Employee** who committed the **Wrongful Act**; or
- (b) any person or organisation in collusion with the **Employee** who committed the **Wrongful Act**, provided that the **Insured** proves beyond reasonable doubt that the **Employee** intended to obtain improper financial gain.

Salaries, fees, commission, bonuses and similar employee benefits earned in the normal course of employment, including salary increases and promotions, do not constitute improper financial gain.

4.91 Wrongful Detention

the arbitrary or capricious confinement of an **Insured Person**, while acting in the course of his employment by an **Insured**, by person(s) acting as agent(s) of or with the tacit approval of any government or governmental entity, or acting or purporting to act on behalf of any insurgent party, organization or group. A connected series of **Wrongful Detentions** will be considered one **Wrongful Detention**.

5. General Provisions

5.1 Discovery and Notification of Loss

After **Discovery** of a **Loss**, potential **Loss** or claim for a **Payment** under this policy, the **Insured** shall:

- (i) give written notice thereof to the **Insurer** as soon as practicable; and
- (ii) file detailed proof of **Loss**, damage and expenses (which includes but is not limited to a completed proof of **Loss** form in the format agreed by the **Insurer**) with the **Insurer** within 6 months after **Discovery**, or within such further period as agreed to in writing by the **Insurer**; and
- (iii) provide all requested information and documents and co-operate with the **Insurer** in all matters pertaining to **Loss** damage and expenses.

All notifications of circumstances, **Losses** and claims for **Payments** under this policy must be in writing to the address in Item 10 ('Claim Notice') on the Schedule and reference the Policy Number.

The details of any other insurance policy which may apply to any **Loss** covered under this policy shall be reported to the **Insurer** within a reasonable time of any such notification.

5.2 Use of Fraud Investigator

The **Fraud Investigator** shall:

- (i) investigate the facts behind a **Loss**;
- (ii) determine the quantum of a **Loss**;
- (iii) advise when and how the **Insured's** controls were or may have been breached;
- (iv) summarise recommendations which may prevent future similar **Loss**; and
- (v) issue a report limited to the foregoing, in a format approved by the **Insurer**, in duplicate to the **Insured** and to the **Insurer**.

The **Insurer** has the right to attend the initial meeting between the **Insured Entity** or **Fund** and the **Fraud Investigator**.

5.3 Discovery Period

The **Policyholder** must make any request for a **Discovery Period** in writing, and pay any applicable additional premium, within 30 days after expiry of the **Policy Period**. A **Discovery Period** is not cancellable by the **Policyholder**. No **Discovery Period** is available if this policy is cancelled or avoided.

While this policy affords to the **Policyholder** no right to a **Discovery Period** if a **Transaction** takes place; upon written request of the **Policyholder**, the **Insurer** may quote a 72 month run-off discovery period. In considering such request, the **Insurer** shall be entitled to fully underwrite the exposure and to extend such offer on whatever terms, conditions and limitations that the **Insurer** deems appropriate.

5.4 Transit

Transit is deemed to commence upon receipt of **Property** or other items by the transporting person or organisation and to end immediately upon delivery to the designated recipient or agent.

5.5 Possession of Instruments

Any **Document** or **Security** or **Mortgage Instrument** or insurance policy must be in the actual physical possession of the **Insured**, its correspondent bank or designated agent or **Financial Organisation** when acting on their behalf, at the time the **Insured**, or **Financial Organisation** acting on their behalf, acts or relies upon any such item.

5.6 Limit of Liability

Other than in the case of Extension 2.9 ('Loss Establishment Costs'), the **Limit of Liability** is the total aggregate limit of the **Insurer's** liability for all **Payments** under this policy. The total amounts payable by the **Insurer** under any Extensions subject to a Sublimit of Liability shall not exceed the applicable amount specified for that Extension. Sub-limits of liability, Extensions (other than Extension 2.9 ('Loss Establishment Costs')) and **Defence Costs** are part of and are not payable in addition to the **Limit of Liability**.

General Provisions (Continued)

5.7 Retention

The **Insurer** shall only be liable for the amount of any **Payment** that is in excess of the **Retention**. The **Retention** shall not apply in respect of any **Plan** where such **Plan** is required by law to comply with the Employee Retirement Income Security Act 1974 (ERISA) in the United States of America. The **Retention** shall apply to the **Ultimate Net Loss** sustained by the **Insured**, but nothing in this policy shall be construed to mean that a **Loss** is not recoverable hereunder until the **Ultimate Net Loss** has been ascertained.

5.8 Basis of Valuation

In determining the amount collectable under this policy for any **Loss**, deductions shall be made in respect of any property (including **Property**) received from any source whatsoever, including payments and receipt of principal, interest, dividends, commissions and the like, whenever received, in connection with any matter from which an indemnifiable **Loss** has arisen.

In no event shall the **Insurer** be liable for more than:

- (i) the actual market value, determined by that published in the Australian Financial Review in Australia or equivalent local daily financial newspaper, of **Securities**, foreign funds, currencies or precious metals at the close of business on the day the **Loss** was **Discovered**, or, if less, the actual cost of replacing the **Securities**;
- (ii) the cost of blank books, blank pages or other materials plus the cost of labour and computer time for the actual transcription or copying of data furnished by the **Insured** in order to reproduce books of accounts and records;
- (iii) the cost of blank **Electronic Data Processing Media** and the cost of labour for the actual transcription or copying of **Electronic Data** furnished by the **Insured**, in order to reproduce such **Electronic Data**, however, if such **Electronic Data** cannot be reproduced and represents **Securities** or other financial instruments of value, then the **Loss** will be valued as indicated in paragraphs (i) and (iv) of this General Provision; and
- (iv) the actual cash value of other **Property** at the time of **Loss** or the actual cost of repairing or replacing the **Property** with property or material of like quality or value, whichever is less.

5.9 Single Policy

This policy is a single contract of insurance and if more than one **Insured** is covered, this policy shall nevertheless be and remain a single contract of insurance for the benefit of the **Insured** as joint **Insured** and accordingly, without limitation:

- (i) the **Policyholder** shall act for itself and for all **Insureds** for all purposes under this policy, including but not limited to the giving and receiving of notice, the giving of notice of **Loss**, the payment of premiums that may become due and the receipt and acceptance of any endorsements issued to form a part of this policy;
- (ii) payment of any **Loss** under this policy to the **Policyholder** shall fully release the **Insurer** with respect to such **Loss**, however, in the event that any **Loss** sustained by any United Kingdom Pension Fund is covered under this policy, payment shall be made by the **Insurer** to the trustees of such funds for and on behalf of the beneficiaries;
- (iii) if the **Policyholder** is more than one entity and any such entity ceases for any reason to be covered under this policy, then the remaining entities shall be considered to be the **Policyholder** for all purposes under this policy;
- (iv) the **Insurer's** liability for **Loss** sustained by any or all of the **Insured** shall not exceed the amount for which the **Insurer** would be liable had all such **Loss** been sustained by any one of the **Insured**;
- (v) in calculating **Loss** covered under this policy, where another **Insured** receives a benefit corresponding or relating to such **Loss**, that benefit will be set off against the value of such **Loss**;
- (vi) **Loss** sustained by any nominee appointed by the **Insured** to handle specified business transactions, shall be deemed to be **Loss** sustained by the **Insured**.

General Provisions (Continued)

5.10 Settlement Disputes

With respect to Extension 2.3 ('Defence Costs'), if the **Insurer** recommends that any demand, claim, suit or legal proceeding should be settled, the **Policyholder** may elect to continue the defence of that demand, claim, suit or legal proceeding without the **Insurer's** prior written consent provided that the **Insurer's** liability for all legal fees, costs and expenses covered by such Extension shall not exceed the amount of fees, costs and expenses incurred to the date such settlement was recommended in writing to the **Insured**.

A **Senior Lawyer** shall determine the amount for which that demand, claim, suit or legal proceeding could have been settled, taking into account the economics of the matter, the damages and costs which are likely to be recovered by the plaintiff, the likely costs of defence and the prospects of the **Insured** successfully defending the action. The costs of the **Senior Lawyer's** determination shall be borne by the **Insurer**.

5.11 Changes in Risk during Policy Period

- (i) If during the **Policy Period** a **Transaction** occurs the **Insurer** shall not be liable or make any **Payment** or provide any services in connection with any claim arising out of, based upon or attributable to any act or omission covered hereunder committed after the occurrence of said **Transaction**.
The **Policyholder** shall give the **Insurer** written notice of the **Transaction** as soon as practicable, but not later than 30 days after the effective date of the **Transaction**.
- (ii) Cover for any **Subsidiary** shall only apply in respect of **Loss Discovered** for any act, omission or event committed during the **Policy Period** and after the date of a **Subsidiary** acquisition or creation and whilst such entity is a **Subsidiary** of the **Policyholder**. However, upon written request by the **Policyholder**, the **Insurer** shall consider, after assessment and evaluation of the increased exposure, granting cover for any act or omission committed prior to the acquisition or creation of a **Subsidiary** by the **Policyholder**. Such cover, if granted, shall be confirmed in writing by the **Insurer**.
- (iii) If a receiver, liquidator, administrator or equivalent under the laws of any jurisdiction is appointed to any **Insured** during the **Policy Period**, cover hereunder shall cease to afford any cover for **Loss** subsequently **Discovered** and notified to the **Insurer** in respect of such **Insured**.
- (iv) Cover provided by this policy shall cease in respect of any **Employee**, as soon as any director, officer, partner or trustee of the **Insured** not in collusion with that **Employee** **Discovers** the commission by the **Employee** of any act or omission which could reasonably be foreseen to give rise to a **Loss**, but without prejudice to the loss of **Property** in transit in the custody of the **Employee** at the time of **Discovery**. The **Insurer** shall have no liability to indemnify the **Insured** for **Loss** resulting from such act or omission after the date it was **Discovered**.
- (v) This policy shall cease in respect of any **Service Bureau**:
 - (a) immediately upon the **Discovery** by any **Insured**, or any director, officer, partner or trustee not in collusion with such **Service Bureau**, of any dishonest, fraudulent or malicious act committed by any partner, director, officer or employee of such **Service Bureau**, without prejudice to the loss of **Property** then in transit in the custody of such person; or
 - (b) 15 days after receipt by the **Policyholder** of a written notice from the **Insurer** cancelling this policy as to such **Service Bureau**.

5.12 Policy Interpretation

Any interpretation of this policy or issue relating to its construction, validity or operation shall be determined by the laws of the Commonwealth of Australia and the Australian State or Australian Territory in which the policy is issued. No amendment to this policy will be effective unless it is written. Except as otherwise provided herein, the parties will submit to the exclusive jurisdiction of Australian courts.

This policy, its Schedule and any endorsements are one contract in which, unless the context otherwise requires:

- (i) headings are descriptive only, not an aid to interpretation;

General Provisions (Continued)

- (ii) singular includes the plural, and vice versa;
- (iii) the male includes the female and neuter;
- (iv) all references to specific legislation include amendments to and re-enactments of such legislation; and
- (v) references to positions, offices or titles shall include their equivalents in any jurisdiction in which a **Loss is Discovered**.

5.13 Assignment

This policy and any rights under or in respect of it cannot be assigned without the prior written consent of the **Insurer**.

5.14 Subrogation

The **Insurer** shall be subrogated to all of the **Insured's** rights of recovery to the extent of all **Payments**. The **Insured** shall execute all papers required and shall do everything necessary to secure any rights, including the execution of any documents necessary to enable the **Insurer** effectively to bring suit in the name of the **Insured** whether such acts become necessary before or after payment by the **Insurer**.

5.15 Recoveries

Recoveries (except from insurance, reinsurance, sureties or indemnity) following a paid **Loss** under this policy, will be allocated in the following order of reimbursement:

- (i) firstly, for any costs and expenses reasonably and necessarily incurred in relation to the recovery;
- (ii) secondly, the **Policyholder** will be reimbursed for any **Loss** in excess of the **Limit of Liability**;
- (iii) thirdly, the **Insurer** will be reimbursed for any settlement made for **Loss**, fees, costs and expenses paid under this policy; and
- (iv) lastly, the **Insured** will be reimbursed for the **Retention**.

5.16 Cancellation

The **Policyholder** may cancel this policy by providing written notice to the **Insurer** in which case the **Insurer** shall retain the customary short rate proportion of the **Premium**, unless a **Loss** has been **Discovered** before cancellation, in which case no refund shall be due. The **Insurer** may cancel this policy as and in the manner permitted by law and shall be entitled to retain the pro-rata proportion of the **Premium**.

5.17 Policy Validity

This policy is not binding upon the **Insurer** unless it is signed on the Schedule by an authorised representative of the **Insurer**.

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