



Zurich Fraud Insurance

Financial Institutions – Policy Wording



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Welcome to Zurich

About Zurich

The insurer of this product is Zurich Australian Insurance Limited (ZAIL), ABN 13 000 296 640, AFS Licence Number 232507, a subsidiary of Zurich Financial Services Australia Limited (ZFSA). In this document, ZAIL may also be expressed as 'Zurich', 'we', 'us' or 'our'.

ZAIL is part of the Zurich Insurance Group, a leading multi-line insurer that serves its customers in global and local markets. Zurich provides a wide range of general insurance and life insurance products and services in more than 210 countries and territories. Zurich's customers include individuals, small businesses, and mid-sized and large companies, including multinational corporations.

Duty of Disclosure

Before you enter into an insurance contract, you have a duty to tell us anything that you know, or could reasonably be expected to know, may affect our decision to insure you and on what terms.

You have this duty until we agree to insure you.

You have the same duty before you renew, extend, vary or reinstate an insurance contract.

You do not need to tell us anything that:

- reduces the risk we insure you for; or
- is common knowledge; or
- we know or should know as an insurer; or
- we waive your duty to tell us about.

If you do not tell us something

If you do not tell us anything you are required to, we may cancel your contract or reduce the amount we will pay you if you make a claim, or both.

If your failure to tell us is fraudulent, we may refuse to pay a claim and treat the contract as if it never existed.

Our contract with you

Your policy is a contract of insurance between the *policyholder* and Zurich and contains all the details of the cover that we provide.

Your policy is made up of:

- the policy wording. It tells you what is covered, sets out the claims procedure, exclusions and other terms and conditions of cover;
- the *submission*, which is the information you provide to us when applying for insurance cover;
- your most current policy *schedule* issued by us. The policy *schedule* is a separate document unique to you, which shows the insurance details relevant to you. It includes any changes, exclusions, terms and conditions made to suit your individual circumstances and may amend the policy; and
- any other written change otherwise advised by us in writing (such as an endorsement). These written changes vary or modify the above documents.

Please note, only those covers shown in your policy *schedule* are insured.

This document is used for any offer of renewal we may make, unless we tell you otherwise. Please keep your policy in a safe place. We reserve the right to change the terms of this product where permitted to do so by law.

Privacy

Zurich is bound by the Privacy Act 1988 (Cth). We collect, disclose and handle information, and in some cases personal or sensitive (eg health) information, about you ('your details') to assess applications, administer policies, contact you, enhance our products and services and manage claims ('Purposes'). If you do not provide your information, we may not be able to do those things. By providing us, our representatives or your intermediary with information, you consent to us using, disclosing to third parties and collecting from third parties your details for the Purposes.

We may disclose your details, including your sensitive information, to relevant third parties including your intermediary, affiliates of Zurich Insurance Group Ltd, other insurers and reinsurers, our banking gateway providers and credit card transactions processors, our service providers, our business partners, health practitioners, your employer, parties affected by claims, government bodies, regulators, law enforcement bodies and as required by law, within Australia and overseas.

We may obtain your details from relevant third parties, including those listed above. Before giving us information about another person, please give them a copy of this document. Laws authorising or requiring us to collect information include the Insurance Contracts Act 1984 (Cth), Anti-Money Laundering and Counter-Terrorism Financing Act 2006 (Cth), Corporations Act 2001 (Cth), Autonomous Sanctions Act 2011 (Cth), A New Tax System (Goods and Services Tax) Act 1999 (Cth) and other financial services, crime prevention, trade sanctions and tax laws.

Zurich's Privacy Policy, available at www.zurich.com.au or by telephoning us on 132 687, provides further information and lists service providers, business partners and countries in which recipients of your details are likely to be located. It also sets out how we handle complaints and how you can access or correct your details or make a complaint.

General Insurance Code of Practice

We are signatories to the General Insurance Code of Practice (the Code) and support the Code.

The objectives of the Code are:

- to commit us to high standards of service;
- to promote better, more informed relations between us and you;
- to maintain and promote trust and confidence in the general insurance industry;
- to provide fair and effective mechanisms for the resolution of complaints and disputes you make about us; and
- to promote continuous improvement of the general insurance industry through education and training.

The Code Governance Committee is an independent body that monitors and enforces insurers compliance with the Code.

Further information about the Code or the Code Governance Committee and your rights under it is available at <https://insurancecouncil.com.au/cop/> or by contacting us.

Complaints and Disputes Resolution process

If you have a complaint about an insurance product we have issued or the service you have received from us, please contact your intermediary to initiate your complaint with us. If you are unable to contact your intermediary, you can contact us directly on 132 687. We will acknowledge receipt of your complaint within 24 hours or as soon as practicable.

If you are not satisfied with our initial response, you may access our internal dispute resolution process. Please refer to the general insurance fact sheet available on our website for details of our internal dispute resolution process.

We expect that our internal dispute resolution process will deal fairly and promptly with your complaint, however, you may take your complaint to the Australian Financial Complaints Authority (AFCA) at any time.

AFCA is an independent external dispute resolution scheme. We are a member of this scheme and we agree to be bound by its determinations about a dispute. AFCA provides fair and independent financial services complaint resolution that is free to you.

Their contact details are:

Website: www.afca.org.au

Email: info@afca.org.au

Freecall: 1800 931 678

In writing to: The Australian Financial Complaints Authority, GPO Box 3, Melbourne, Victoria 3001.

If your complaint or dispute falls outside the AFCA Rules, you can seek independent legal advice or access any other external dispute resolution options that may be available to you.

Zurich Fraud Insurance – Financial Institutions Policy Wording

Subject to payment of the premium, we agree to provide insurance in accordance with the terms, conditions and exclusions of this policy.

1. Insuring Clauses

1.1 Internal fraud

We will indemnify the *insured* for their *financial loss* which is *discovered* during the *period of insurance* or the *extended discovery period* (if applicable) and reported to us in accordance with General Condition 6.8 'Notification of Financial Loss', resulting directly from any *wrongful fraudulent act* of any *employee* including any person acting in collusion with such *employee*.

1.2 External fraud

We will indemnify the *insured* for their *financial loss* which is *discovered* during the *period of insurance* or the *extended discovery period* (if applicable) and reported to us in accordance with General Condition 6.8 'Notification of Financial Loss', resulting directly from any *wrongful fraudulent act* of any *third party* other than any *employee* or any person acting in collusion with such *employee*.

2. Definitions

2.1 Benefit plan

benefit plan means any superannuation fund, employee benefit, pension, welfare benefit, share option or share saver plan or charitable fund or foundation maintained by the *policyholder* or *subsidiary* for the benefit of the past, present and or future *employees* or their respective beneficiaries on or after the inception date of this policy.

2.2 Bill of exchange

bill of exchange means an unconditional order in writing, addressed by one person to another, signed by the person giving it, requiring the person to whom it is addressed 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.

2.3 Certificate of deposit

certificate of deposit means a written acknowledgement by a bank of a deposit with promise to pay to depositor, to his order, or to some other person or to his order said deposit with interest on a specified date.

2.4 Certificated security

certificated security means a share, participation or other interest in *property* of an enterprise of the issuer or an obligation of the issuer, which is:

- 2.4.1 represented by an instrument issued in bearer or registered form;
- 2.4.2 of a type commonly dealt in on security exchanges or markets or commonly recognised in any area on which it is issued or dealt in as a medium for investments; and
- 2.4.3 either one of a class or series or by its terms is divisible into a class or series of shares, participations, interests or obligations.

2.5 Change in control

change in control means if during the *period of insurance*:

- 2.5.1 any person, entity or group:
 - (a) acquires more than 50% of the *policyholder's* share capital;
 - (b) acquires the majority of the voting rights in the *policyholder*;

- (c) assumes the right to appoint or remove the majority of the board of directors (or equivalent position) of the *policyholder*;
 - (d) assumes control pursuant to written agreement with other shareholders over the majority of the voting rights in the *policyholder*; or
 - (e) merges with the *policyholder*, such that the *policyholder* is not the surviving entity; or
- 2.5.2 a trustee in bankruptcy, receiver, liquidator, conservator, rehabilitator (or similar official or person) is appointed for the *policyholder*.

2.6 Cheque

cheque means a *bill of exchange* drawn on a bank, directing it to pay the sum specified on demand.

2.7 Computer or Electronic fraud

computer or electronic fraud means:

- 2.7.1 the *impairment* of any *computer programs*, *electronic communications*, *electronic data* or *uncertificated security* upon which the *insured* or any *financial institution* acting on their behalf, has acted or relied;
- 2.7.2 the introduction of *malicious code* upon which the *insured* or any *financial institution* acting on their behalf, has acted or relied;
- 2.7.3 the *insured*, or any *financial institution* acting on their behalf, has acted or relied upon any fraudulent *electronic communications* or fraudulent *telephone communications* purporting to have been, but were not sent by:
 - (a) the *insured*;
 - (b) a *financial institution*;
 - (c) a customer or client of the *insured*; or
 - (d) a *computer service bureau*; or
- 2.7.4 a *financial institution*, or any customer or client of the *insured* or a *computer service bureau* having acted or relied upon any fraudulent *electronic communications* or fraudulent *telephone communications* purporting to have been, but were not sent by the *insured*, or any *financial institution* acting on their behalf.

2.8 Computer programs

computer programs means the computer programs being facts or statements converted to a form usable in a *computer system* that act upon *electronic data*.

2.9 Computer service bureau

computer service bureau means a natural person, partnership or corporation authorised by written or electronic agreement with the *insured* to perform data processing services using a *computer system*.

2.10 Computer system

computer system means a computer and all input, output, processing, storage facilities (including off-line media libraries), intranets and communication facilities (including related communication or open systems networks and extranets), which are connected directly or indirectly to such a device.

2.11 Corporate card application

corporate card application means any document required in connection with an application for any corporate charge card, credit card or fuel card issued to the *insured* or at their request for use by any of the *insured's employees*, directors or officers.

2.12 Counterfeit

counterfeit means the imitation of an instrument, currency or coin which, because of the quality of the imitation the *insured* or any *financial institution* acting on their behalf believes that the imitation is the authentic original instrument, currency or coin. Fictitious instruments, currency or coin which merely contain fraudulent misrepresentation of fact and are genuinely signed or endorsed are not *counterfeit*.

2.13 Counterfeit currency fraud

counterfeit currency fraud means the *insured*, or any *financial institution* acting on their behalf having received in good faith any *counterfeit* or altered currency or coin.

2.14 Damage or Impairment to property

damage or impairment to property means physical loss of, damage to or destruction of *property*:

2.14.1 whilst in possession of the *insured* or a customer of the *insured* on the *insured's premises*;

2.14.2 whilst in transit; or

2.14.3 due to false pretences or deception as to the identity of any natural person physically present on the *insured's premises*,

including but not limited to such damage or *impairment* caused by any actual or attempted robbery, burglary, hold-up, theft, larceny, vandalism, criminal damage or malicious damage.

2.15 Damage to offices and contents

damage to offices and contents means damage to or destruction of:

2.15.1 any office or the interior of any *premises*; or

2.15.2 any furnishings, fixtures, equipment, tangible computer related equipment, alarms, stationery, record books, supplies, safes and vaults within any office or *premises*,

owned or occupied by the *insured* and in which they conduct their business or for which they are liable, caused by any actual or attempted robbery, burglary, hold-up, theft, larceny, vandalism, criminal damage or malicious damage.

Damage to offices and contents does not mean damage or destruction by fire, however caused.

2.16 Data

data means facts or information (including text, numbers, sounds and images) converted to a form usable in a *computer system* or an *electronic communications system* and which is stored on *storage media*.

2.17 Deductible

deductible means the amount applicable to each and every *financial loss* stated in the *schedule*.

2.18 Discovered or Discovery

discovered or *discovery* means when a *responsible officer* first has knowledge of any act, omission, event, facts or matters which would cause such *responsible officer* to reasonably foresee that a *financial loss* covered by this policy is likely to have been or to be incurred even though the exact amount or details of such *financial loss*, act, omission, event, facts or matters are not known at the time of *discovery*.

Discovery by any *responsible officer* will constitute *discovery* by every *insured*.

2.19 Document

document means:

2.19.1 original (including original counterparts) negotiable or non-negotiable agreements in writing, having value which value is, in the ordinary course of business, transferable by delivery of such agreements with any necessary endorsement or assignment, or original corporate, partnership or personal guarantees;

- 2.19.2 any *bill of exchange, certificate of deposit, cheque, draft, letter of credit, promissory note, withdrawal order* or receipt for the withdrawal of funds or *property*, money orders, orders upon public treasuries, or any similar instruments of value serving the same purpose;
- 2.19.3 *certificated securities*;
- 2.19.4 a written order to the issuer of an *uncertificated security* signed by the registered owner, the registered pledgee or a party acting in a fiduciary capacity for the registered owner requesting that the transfer, pledge or release from pledge of the *uncertificated security* specified therein be registered;
- 2.19.5 any assignment, transfer, power of attorney, stock power, or guarantee presented in connection with the transfer, pledge, or release from pledge of an *uncertificated security* and which transfers, pledges or releases from pledge or purports to transfer, pledge or release from pledge such *uncertificated security*;
- 2.19.6 any stock, share, partnership interest, note, debenture, bond, or other evidence of debt or equity ownership and includes any certificate or participation in, receipt for, warrant or other right to subscribe to purchase, voting trust certificate relating to, *certificate of deposit* for, or other interest in any of the foregoing;
- 2.19.7 *corporate card application*; and
- 2.19.8 *instruction*.

2.20 Document fraud

document fraud means the *insured* or any *financial institution* acting on their behalf, having acted or relied upon any:

- 2.20.1 *forged, fraudulently altered, counterfeit, lost or stolen document*;
- 2.20.2 *forged or fraudulently altered*:
 - (a) requested change of beneficiary in any insurance policy (including an endowment policy) issued by the *insured*;
 - (b) policy loan agreement made by the *insured*; or
 - (c) assignment to the *insured* of any insurance policy (including an endowment policy);
- 2.20.3 signature on any *mortgage document* where such signature was obtained through trick, artifice or false pretences; or
- 2.20.4 *forged or fraudulently altered instruction*.

2.21 Draft

draft means a *bill of exchange* payable on demand drawn by or on behalf of a *financial institution* upon itself whether payable at the Head Office or other office of the *insured*.

2.22 Electronic communications

electronic communications means information, instructions, messages or payments transmitted or communicated:

- 2.22.1 digitally through an *electronic communication system* or over the *internet*; or
- 2.22.2 through the delivery of *storage media*.

2.23 Electronic communications system

electronic communications system means systems which permit the digital transmission of *instructions*, messages, information or payments, including:

- 2.23.1 electronic communication operations by Fedwire, Clearing House Interbank Payment System (CHIPS), Society for Worldwide Interbank Financial Telecommunication (SWIFT), Clearing House Automated Payment System (CHAPS), the funds transfer system for the transfer of preauthorised recurring debits and credits of an Automated Clearing House Association which is a member of the National Automated Clearing House Association and similar automated communication systems;
- 2.23.2 those systems which operate automated teller machines or point of sale terminals and include any shared networks or facilities for said system in which the *insured* participates;
- 2.23.3 telephone banking communications system which provides clients or customers of the *insured* with access to the *insured's computer system* via an automated touch tone telephone service and which require the use of *tested* code (including but not limited to a PIN number) in order to effect any banking transactions; and
- 2.23.4 *tested* telex and *tested* telefacsimile.

2.24 Electronic data

electronic data means facts or information converted to a form usable in a *computer system* and which is stored for use by *computer programs* on tapes, discs, CD-Rom or other bulk media, whether magnetic or optical.

2.25 Employee(s)

employee(s) means any:

- 2.25.1 natural person providing services to the *insured* under a contract of employment with the *insured* (whether full time, part time or temporary) working under their direct control and supervision, other than those persons as described in 2.25.3 below;
- 2.25.2 natural person providing services to the *insured* under a written contract for services with, and working under the direct control and supervision of the *insured*, while that person is acting in the course of such services to the *insured*;
- 2.25.3 director or officer of the *insured* only when:
 - (a) performing acts coming within the scope of the usual duties of an employee providing services to the *insured* under a contract of employment (as described in 2.25.1 above); or
 - (b) 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*; and
 - (c) working under the direct control and supervision of the *insured*;
- 2.25.4 natural person or company authorised by written contract to perform accounting, data processing of *cheques*, payroll or computing services on behalf of the *insured* and outsourced to such natural person or company by the *insured*;
- 2.25.5 guest student pursuing studies or duties or any person engaged in work experience or on a training scheme with the *insured* while working under its direct control and supervision;
- 2.25.6 natural person seconded to the *insured* while working under its direct control and supervision;
- 2.25.7 natural person trustee, fiduciary, administrator or officer of any *benefit plan* but not in circumstances where and to the extent that such person is acting in the course of discharging or performing their trustee, fiduciary, administrator or officer role;

- 2.25.8 natural person who is an ex-employee of the *insured* for a period not exceeding 60 days following the termination of their employment with the *insured*, other than when their employment is terminated as a result of a *wrongful fraudulent act*; and
- 2.25.9 natural person falling within 2.25.1, 2.25.3, 2.25.5, 2.25.6 and 2.25.7 whom the *insured* is unable to identify by name, but whose *wrongful fraudulent act* has caused a *financial loss* covered under Insuring Clause 1.1, provided that the *insured* proves beyond reasonable doubt that such *financial loss* was due to the *wrongful fraudulent act* of such person.

Employee does not mean any independent broker, independent financial adviser, or any similar agent or independent representative remunerated on sales or commission basis unless specifically agreed in writing by us and endorsed to this policy.

2.26 Erroneous transfer fraud

erroneous transfer fraud means the appropriation by a *third party* recipient of funds or *property* misdirected or transferred in error by the *insured* or *financial institution* acting on behalf of the *insured* provided always that the *insured* or such *financial institution* must exhaust all reasonable courses of action to recover such funds or *property*.

2.27 Extended discovery period

extended discovery period means the relevant period of cover stated in the *schedule*.

2.28 Extortion

extortion means the surrender or transfer of funds or *property* of the *insured* away from the *premises* of the *insured* as a result of a threat communicated to the *insured*:

- 2.28.1 to do bodily harm to any director, trustee, officer, partner, *employee* (or a relative, guest or any member of the household of such director, trustee, officer, partner, *employee*) who is, or allegedly is, being held captive or under threat; or
- 2.28.2 to cause damage to the *premises*, *property*, or *computer system* of the *insured*.

2.29 Financial institution

financial institution means:

- 2.29.1 any bank, credit institution, financial institution, undertaking for collective investment in *securities*, investment firm, asset management company, building society, friendly society, or similar organisation;
- 2.29.2 a recognised investment exchange, recognised clearing house, designated investment exchange, designated clearing house, overseas investment exchange or overseas clearing house all as defined in the FSA Handbook, Release 066, June 2007 or any future revisions to said FSA Handbook;
- 2.29.3 any regulated investment exchange or clearing house of the same type and nature as described in 2.29.2 above operating in any country;
- 2.29.4 any custodian with whom the *insured* has a written or electronic agreement for the provision of purchasing services, safekeeping, registration and entitlement records for the *insured* in connection with *securities*; or
- 2.29.5 any regulated central *securities* depository or international central securities depository.

2.30 Financial loss

financial loss means direct financial loss sustained by the *insured* as a result of any single *wrongful fraudulent act* (or related series of *wrongful fraudulent acts*). *Financial loss* that results from a related series of *wrongful fraudulent acts* will be treated as a single *wrongful fraudulent act*.

Financial loss:

- 2.30.1 does not include salaries, fees, commissions, bonuses, promotions, profit sharing or similar employee benefits earned in the normal course of employment;
- 2.30.2 does include 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 fraudulent act* covered under this policy; and
- 2.30.3 does include compensatory damages for which the *insured* is legally liable solely and directly following a *wrongful fraudulent act* covered by this policy.

2.31 Forged or Forgery

forged or forgery means the hand-written signing or endorsing of the name of another genuine person or a copy of said person's signature without authority and with the intent to deceive but does not mean 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.

2.32 Fraudulent alteration or fraudulently altered

fraudulent alteration or fraudulently altered means a material alteration of a *document* for a fraudulent purpose by any person other than the person who was authorised to sign such *document*.

2.33 Fraudulent induced transfer

fraudulent induced transfer means loss of *property*, on deposit in the *insured's* own account, resulting directly from a transfer resulting from the good faith reliance upon a fraudulent instruction:

- 2.33.1 transmitted to the *insured* or *employee* of the *insured* via an electronic mail, telefacsimile, telephone or other written *instruction* received by the *insured* or *employee* of the *insured* not acting in collusion with the sender of the fraudulent *instruction*; and
- 2.33.2 that purports, and reasonably appears, to have originated from:
 - (a) an *employee* of the *insured* specifically authorised by the *insured* to make such *instruction*; or
 - (b) a *vendor* authorised by the *insured*,but the sender of the fraudulent *instruction* was not, in fact, such *employee* or *vendor* but someone impersonating such and the impersonated *employee* or *vendor* had no knowledge of or did not consent to such fraudulent *instruction* received by the *insured*; and
- 2.33.3 containing a misrepresentation of material fact reasonably relied upon that directs the *insured* or *employee* of the *insured* to transfer, pay, or to change the method, destination or account for payments to such *employee* or *vendor* referenced in 2.33.2 above;

provided the *insured* performed a *transfer verification* prior to such transfer of *property*.

2.34 Fund

fund means any trust, investment trust, investment fund, investment management company (open or closed ended), fund, managed investment scheme, partnership, undertaking for collective investment, private equity or venture capital fund, real estate fund, sub-fund, compartment, mandate or other similar entity sponsored, created or promoted by the *policyholder* or *subsidiary* and explicitly included in the *submission* but does not include any *benefit plan*.

2.35 Identity expenses

identity expenses means reasonable:

- 2.35.1 legal fees, costs and expenses incurred by the *insured* with our prior written consent, (not to be unreasonably withheld):
 - (a) to correct or reinstate official public records;
 - (b) when applying for civil proceedings to be dismissed or withdrawn on the basis that the alleged liability resides with the perpetrator of the *identity theft*, and not the *insured* or its directors or officers; or
 - (c) 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 theft*;
- 2.35.2 fees, costs and expenses of a professional private investigation specialist, incurred by the *insured* with our prior written consent, (not to be unreasonably withheld), to investigate the identity of the perpetrator and their method of operation in respect of an *identity theft*;
- 2.35.3 costs of rewriting or amending the *insured's* software programs or systems with our prior written consent, (not to be unreasonably withheld), where such rewriting or amending is necessary to correct the programs or amend the security codes following an *identity theft*; and
- 2.35.4 fees, costs and expenses incurred and paid by the *insured*, with our prior written consent, (not to be unreasonably withheld), to procure public relations services to redress adverse publicity or injury to their reputation due to an *identity theft*.

2.36 Identity theft

identity theft means the theft or fraudulent modification, alteration or corruption by an *employee* or *third party* of:

- 2.36.1 information or *data* 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 or good standing of such natural person; or
- 2.36.2 publicly available information or *data* on file or within the *computer system* of an *insured* or an official registry or of any other party which relates to the *insured's* genuine identity 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 institutions*, *vendors*, credit reporting authorities and others in assessing and establishing the *insured's* credit ratings and/or good standing.

2.37 Impairment

impairment means actual or attempted fraudulent, dishonest, malicious or criminal: preparation, input, modification, destruction, corruption, deletion, replication or extraction.

2.38 Instruction

instruction means written, electronic or printed instructions or advices:

- 2.38.1 sent by or purporting to have been sent by a client or customer of the *insured* or a *financial institution* and directed to the *insured* or a *financial institution* acting on behalf of the *insured*; or
- 2.38.2 issued by the *insured* authorising the transfer, payment or delivery of funds or *property*.

Special Condition

Where such *instruction* was sent by a person or entity other than the one purported to have sent such *instruction*, it will be deemed to bear a *forged* signature.

2.39 Insured

insured means:

2.39.1 *policyholder* or a *subsidiary*;

2.39.2 *benefit plan*; and

2.39.3 *fund*.

Insured does not mean any *investment entity*.

2.40 Internet

internet means the worldwide publicly accessible series of interconnected computer networks.

2.41 Investment entity

investment entity means any:

2.41.1 not-for-profit entity;

2.41.2 entity whose equity *securities* are not registered to trade and have not traded in a public market, in which one or more *fund* holds or held a debt or equity interest or has performed or is performing due diligence in anticipation of making an investment of its capital in such *investment entity*; or

2.41.3 other entity listed and named as an *investment entity* and agreed in writing by us in an endorsement attached to this policy.

Investment entity does not mean any *insured*.

2.42 Letter of credit

letter of credit means an engagement in writing by a bank made at the request of a client or customer that the issuer will honour a *draft* or other demand for payment upon compliance with the conditions specified in the engagement.

2.43 Limit of liability

limit of liability means the limit as stated in the *schedule* and as provided under General Condition 6.7 'Limit of Liability'.

2.44 Loan(s)

loan(s) means:

2.44.1 any loan or transaction in the nature of, or amounting to, a loan or extension of credit, including a lease, made by or obtained from the *insured*;

2.44.2 any note, invoice, account, agreement or other evidence of debt, assigned or sold by or to, or discounted or otherwise acquired by the *insured* including the purchase, discounting or other acquisition of false or genuine accounts or invoices; or

2.44.3 any payments made or withdrawals from a customer's account involving items which are not paid for any reason.

2.45 Malicious code

malicious code means any unauthorised, corrupting or harmful software code, including but not limited to computer viruses, Trojan horses, keystroke loggers, cookies, spy ware, adware, worms and logic bombs.

2.46 Money laundering

money laundering means actual, attempted or alleged, conspiracy to commit, commission of, aiding, abetting, counselling, procuring, or inciting of any act which is in breach of and/or constitutes an offence or offences under:

2.46.1 any legislation which implements or is designed to implement the European Council Directive 91/308/EEC on prevention of the use of the financial system for the purpose of money laundering, as amended, and/or any offence under the International Convention for the Suppression of the Financing of Terrorism; or

2.46.2 any similar money laundering legislation anywhere in the world including but not limited to Part 7 of the Proceeds of Crime Act 2002 (c. 29) and/or any act which, if it occurred in a part of the United States, would be unlawful under the Racketeer Influenced and Corrupt Organisations Act, 18 United States Code, Chapter 96.

2.47 Mortgage document

mortgage document means any original:

2.47.1 deeds of trust or like instruments pertaining to real property;

2.47.2 debt instrument by which the borrower (mortgagor) gives the lender (mortgagee) a lien on real property as security for the repayment of a mortgage loan; or

2.47.3 assignments of such debt instruments as described in 2.47.2 above, in connection with an individual mortgage loan made by the *insured*.

2.48 Period of insurance

period of insurance means the period of time shown in the *schedule* including any extension thereto agreed in writing by us or the effective date of cancellation of this policy.

2.49 Policyholder

policyholder means the entity named in the *schedule*.

2.50 Premises

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

2.51 Promissory note

promissory note means an unconditional promise in writing made 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 which is discharged by the *insured* but does not include the purchase, discount, sale, *loan* or advance of such *promissory note*.

2.52 Property

property means:

2.52.1 currency, coins, bank notes, money orders, orders upon public treasuries and stamps;

2.52.2 bullion, metals of all kinds and in whatsoever form and articles made there-from, gems (including uncut gem stones), precious and semiprecious stones;

2.52.3 paintings, drawings and other works of art;

2.52.4 *document* (other than *corporate card application* or *instruction*), certificates of stock, bonds, coupons and all other types of securities;

2.52.5 bills of lading, being documents of title issued by a carrier to the order of a shipper and transferable to another person or entity by endorsement;

2.52.6 negotiable instruments, warehouse receipts, travellers' cheques;

2.52.7 *mortgage document*;

2.52.8 insurance policies and endorsements to insurance policies;

2.52.9 deeds of title, deeds of trust and certificates of title; or

2.52.10 other valuable papers, including books of accounts, and other records including *storage media* (and the *data* stored thereon).

2.53 Public relations expenses

public relations expenses means the reasonable fees and related expenses of a public relations firm or consultant, crisis management firm or law firm, which an *insured* in the reasonable exercise of his/her discretion may engage with our prior written consent, (not to be unreasonably withheld), to prevent or limit adverse effects or negative publicity in respect of any *financial loss*.

2.54 Regulator

regulator means any recognised federal or state government, governmental body, governmental or administrative agency, self-regulatory body or any other official regulator.

2.55 Responsible officer

responsible officer means any partner, director, officer, departmental director, senior manager, general counsel, risk manager, insurance manager, internal auditor, trustee or equivalent of any *insured* and who is not in collusion with any *employee* in respect of *financial loss* which may be covered under Insuring Clause 1.1.

2.56 Schedule

schedule means the Schedule attaching to and forming part of the policy, including any *schedule* substituted for the original *schedule*.

2.57 Securities

securities means any *document* as defined under the Definition of *document* from 2.19.1 to 2.19.6 only.

2.58 Storage media

storage media means the physical components or materials on which *data* or *computer programs* can be recorded.

2.59 Submission

submission means:

2.59.1 any information and/or statements or materials;

2.59.2 any proposal form completed and signed by the *insured* (including any attachments thereto, information included therewith or incorporated therein);

2.59.3 the financial statements and annual reports of any *insured*,

requested by or supplied to us by or on behalf of the *insured* in connection with this policy.

2.60 Subsidiary

subsidiary means any entity in which the *policyholder* on or before the inception date of this policy:

2.60.1 controls the composition of the board of directors (or equivalent in any other country);

2.60.2 controls directly or indirectly more than 50% of the shareholder or equity voting rights; or

2.60.3 holds more than 50% of the issued share capital or equity,

and in any event includes any company or legal entity whose financial accounts are required to be consolidated with those of the named *policyholder* pursuant to pursuant to the Corporations Act 2001 (Cth) or the applicable Australian accounting standard.

2.61 Telephone communications

telephone communications means *instructions* made over the telephone by a client or customer with the use of:

2.61.1 a unique code previously arranged with such client or customer and a call-back to an authorised person other than the individual initiating the transfer request; or

2.61.2 a unique password or security code or unique personal security details if such client or customer is a private natural person.

2.62 Tested

tested means a method of authenticating the contents of a communication between the *insured* and a customer or client of the *insured* or a *financial institution*, or between the offices of the *insured*, for the purposes of protecting the integrity of the communication.

2.63 Third party

third party means solely in respect of Insuring Clause 1.2 any person (other than an *employee* or any person acting in collusion with such *employee*) acting alone or in collusion with others.

Special Condition

Third party does not mean any *insured*.

2.64 Trading

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

2.65 Transfer verification

transfer verification means with respect to:

2.65.1 an *employee*, a verification in accordance with the *insured's* internal control procedures disclosed to and approved in writing by us;

2.65.2 a *vendor*, a verification by a callback and response according to a prearranged procedure or other verification procedure disclosed to and approved in writing by us,

which seeks to verify the identity and authenticity of the purported sender and *instructions* for transfer.

2.66 Unauthorised signature fraud

unauthorised signature fraud means the *insured* having accepted, paid or cashed any *cheque* or *withdrawal order* made or drawn on a client's or customer's account which bears a signature or endorsement other than the authorised signature that is on file with the *insured* as a signatory on such account. It is a condition precedent to the *insured's* right of recovery that the *insured* has on file the authorised signatures of all persons who are signatories on such account.

2.67 Uncertificated security

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

2.67.1 is a type commonly dealt in upon securities exchanges or markets;

2.67.2 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

2.67.3 is not represented by an instrument;

2.67.4 is part of a master or global certificate; or

2.67.5 represents a paper certificate that has been surrendered by a *financial institution* and which paper certificate has been combined into a master depository note and the paper certificates are immobilised,

and is shown as an electronic entry where title is recorded on the relevant register of such *securities*.

2.68 Vendor

vendor means any entity or natural person who provides the *insured* with services, products or goods for a fee or other monetary consideration and that are provided under a written contract.

2.69 Withdrawal order

withdrawal order means a written instrument requesting the withdrawal of, or acknowledging receipt of, funds or *property* from a savings account maintained with the *insured* by a depositor.

2.70 Wrongful fraudulent act

wrongful fraudulent act means:

- 2.70.1 solely in respect of Insuring Clause 1.1 any fraudulent, dishonest or malicious act of any *employee* whether committed alone or in collusion with others which results in an improper financial gain to the *employee* or to those others, or which acts were committed by the *employee* (or those others) with the intent to cause a loss to the *insured*.
- 2.70.2 solely in respect of Insuring Clause 1.2:
- (a) *computer or electronic fraud*;
 - (b) *counterfeit currency fraud*;
 - (c) *damage or impairment to property*;
 - (d) *damage to offices and contents*;
 - (e) *document fraud*;
 - (f) *erroneous transfer fraud*;
 - (g) *extortion* only if Extension of Cover 3.3 'Extortion' of this policy is covered;
 - (h) *unauthorised signature fraud*; and
 - (i) *fraudulent induced transfer* only if Extension of Cover 3.4 'Fraudulent Induced Transfer' of this policy is covered.

3. Extensions of Cover

Subject to all the terms, conditions and limitations of this policy, cover is extended as follows:

3.1 Care, Custody and Control

We will indemnify the *insured* for the *financial loss of property*, which is under the control and custody of an *insured* and for which such *insured* is legally liable.

3.2 Extended discovery period

In the event of termination or non renewal of this policy (except for non payment of premium) or a *change in control*, the *policyholder* will have the right to an *extended discovery period* of:

3.2.1 90 days for nil additional premium; or

3.2.2 12 months upon payment of an additional premium as stated in the *schedule*,

commencing from the date of such termination or non renewal or *change in control* but only with respect to *financial loss discovered* during such *extended discovery period* resulting directly from any covered *wrongful fraudulent act* committed prior to the expiry date of the *period of insurance* or the date of termination or non renewal or the date of a *change in control*;

The *policyholder* will not have the right to an *extended discovery period* if:

3.2.3 this policy is replaced or succeeded by another policy covering, wholly or substantially the same risk;

3.2.4 we issue an offer to renew this policy, even if the renewal terms differ substantially from the expiring cover;

3.2.5 the *policyholder* does not request its purchase in writing within 30 days of the effective date of the termination or non-renewal of this policy or the date of a *change in control*; or

3.2.6 the additional premium is not paid in full and received by us within 45 days of the effective date of termination or non-renewal of this policy or the date of a *change in control*.

3.3 Extortion

Insuring Clause 1.2 of this policy is extended to indemnify the *insured* for their *financial loss* caused by *extortion* where such *financial loss* caused by *extortion* is insurable by law.

Provided that:

- 3.3.1 (a) prior to the surrender or transfer of such funds or *property* the person receiving the threat has made a reasonable effort to notify an associate or a director or officer of the *insured* and to notify the police or local law enforcement authorities concerning such threat or, in the event neither report has occurred,
- (b) a reasonable explanation has been provided by the *insured* as to why there was no reasonable effort to report the threat to an associate or a director or officer of the *insured* and/or to the police or local law enforcement authorities;
- 3.3.2 in respect of the surrender of *property* during transit there was no knowledge by the *insured* of any such threat when the transit was initiated; and
- 3.3.3 the maximum that we will pay in the aggregate in respect of *extortion* is the Extortion sub-limit of liability stated in the *schedule*.

3.4 Fraudulent Induced Transfer

If a Fraudulent Induced Transfer sub-limit of liability is specified in the *schedule*, then Insuring Clause 1.2 of this policy is extended to indemnify the *insured* for their *financial loss* caused by *fraudulent induced transfer* first sustained by the *insured* and *discovered* during the *period of insurance* or the *extended discovery period* (if applicable).

The maximum that we will pay in the aggregate for such *fraudulent induced transfer* is the Fraudulent Induced Transfer sub-limit of liability stated in the *schedule*.

3.5 Identity expenses

We will indemnify the *insured* for *identity expenses* following *identity theft* first sustained by the *insured* and *discovered* during the *period of insurance* or the *extended discovery period* (if applicable).

The maximum that we will pay in the aggregate for such *identity expenses* is the Identity Expenses sub-limit of liability stated in the *schedule*.

3.6 Interest

We will indemnify the *insured* for the amount of any interest receivable or payable by the *insured* resulting directly from a *financial loss* covered by this policy, provided that our liability for such interest receivable or payable is calculated by applying the average base rate in force by the Reserve Bank of Australia, between the time of sustaining such *financial loss* and the date of *discovery* of such *financial loss*.

The maximum that we will pay in the aggregate for such interest receivable or payable is the Interest sub-limit of liability stated in the *schedule*.

3.7 Investigation Costs

We will indemnify the company for its reasonable costs, expenses and fees, incurred with our prior consent, after discovery of a *financial loss* covered under this Policy, for establishing the amount of such *financial loss*.

The cover provided under this Extension shall be subject to both the applicable retention and a sub-limit of liability of \$250,000 in the aggregate.

We shall not be liable under this Extension for:

- (i) internal or overhead expenses of the company; or
- (ii) salary or remuneration of any *employee*, partner, director or officer of the company.

3.8 Late arising extensions

If during the *period of insurance* we develop a standard endorsement providing enhancements of coverage to our base Fraud Insurance – Financial Institutions policy in the country where the *policyholder* is domiciled (as indicated in the *schedule*) and such endorsement is to be made available to our clients in such country for no additional premium, then the *policyholder* will have the right to the benefit of such new coverage enhancement endorsement, subject to all underwriting information or particulars as we may require, from the date of such availability.

3.9 Mitigation costs following Internal or External fraud

We will indemnify the *insured* for costs and expenses that are reasonable and incurred directly by the *insured* taking action before notification to us after *discovery* during the *period of insurance* or the *extended discovery period* (if applicable) of a covered *wrongful fraudulent act* where such action prevents, limits or mitigates the *insured's* exposure to actual or potential covered *financial loss*.

It is agreed that:

- 3.9.1 the burden of proving that the covered *wrongful fraudulent act* would be covered under this policy will rest with the *insured*;
- 3.9.2 we will not be liable for:
 - (a) internal or overhead expenses of the *insured* other than those involved in taking immediate action which prevents, limits or mitigates its exposure to *financial loss*;
 - (b) salary or other remuneration of any *employee*;
 - (c) the amount of any *deductible* applicable; or
 - (d) any increase in *financial loss* or *financial loss* sustained by the *insured* arising from taking such action; and
- 3.9.3 the maximum that we will pay in the aggregate for such costs and expenses is the Mitigation costs sub-limit of liability stated in the *schedule*.

3.10 Newly acquired or Created entities

Cover under this policy is extended to any *subsidiary, benefit plan or fund* which the *policyholder* first acquires or creates after the inception of this policy unless such:

- 3.10.1 *subsidiary* has total assets which are greater than 20% of the total consolidated assets of the *policyholder* (last audited annual report);
- 3.10.2 *benefit plan* has total assets which are greater than 20% of the total consolidated assets of the *benefit plans* insured under this policy at inception of this policy;
- 3.10.3 *fund* has total assets or total funds under management which are greater than 20% of the total consolidated assets or funds under management of the *funds* insured under this policy at inception of this policy;
- 3.10.4 *subsidiary, benefit plan or fund* is incorporated, formed or based in the United States of America, or any state, territory or possession thereof; or
- 3.10.5 *subsidiary, benefit plan or fund* had during the last 5 years any loss or claim that that may have been covered under this policy for an amount exceeding 50% of the applicable *deductible* under this policy.

If a newly acquired or created *subsidiary, benefit plan or fund* falls into 3.10.1 to 3.10.5 above inclusive, such entity will be covered under this policy, but only for a period of 90 days from the date the *policyholder* either directly or indirectly through one or more of its *subsidiaries* first acquired or created such *subsidiary, benefit plan or fund*, or until the end of the *period of insurance*, whichever occurs first, provided the *policyholder* pays any additional premium required by us in connection with such new *subsidiary, benefit plan or fund*.

We may at our sole discretion extend coverage for any such beyond the 90 day period if during the 90 day period:

- 3.10.6 the *policyholder* requests an extension of this policy for such *subsidiary, benefit plan or fund* in writing to us;
- 3.10.7 the *policyholder* gives us sufficient details to permit us to assess and evaluate the potential increase in exposure; and
- 3.10.8 the *policyholder* agrees to any additional premium and amendments to the policy required by us at our sole discretion relating to such new *subsidiary, benefit plan or fund*.

Unless otherwise agreed in writing and attached as an endorsement to this policy, cover under this policy for such *subsidiary, benefit plan or fund* first acquired or created after the inception of this policy will only apply for *wrongful fraudulent acts* committed after such entity is first acquired or created and whilst a *subsidiary, benefit plan or fund* of the *policyholder*.

3.11 Public relations expenses

Cover under this policy is extended to pay *public relations expenses* where for the sole purpose of protecting the *insured's* reputation that has been brought to question as a direct result of any *financial loss* covered by this policy. However:

- 3.11.1 the *insured* must notify us within 30 days of first becoming aware of the *insured's* reputation being brought into question and provide full written details outlining the circumstances surrounding the event;
- 3.11.2 we must have given prior written consent, (not to be unreasonably withheld), to retain the services of such public relations consultants; and
- 3.11.3 the maximum that we will pay in the aggregate for *public relations expenses* is the Public relations expenses sub-limit of liability for this Extension of Cover stated in the *schedule*.

3.12 Sale of Subsidiary, Benefit plan or Fund

This policy will continue to provide cover for any *financial loss* sustained or incurred by any *subsidiary, benefit plan or fund* which is sold during the *period of insurance*.

Provided always that:

- 3.12.1 such *financial loss* results from acts committed or events taking place in their entirety prior to the date of such sale;
- 3.12.2 such *financial loss* is *discovered* during the *period of insurance* or the *extended discovery period* (if applicable); and
- 3.12.3 the *policyholder* (or any *subsidiary, benefit plan or fund* other than the sold *subsidiary, benefit plan or fund*) remains legally or contractually liable for such *financial loss*.

3.13 Stop payment order

We will indemnify the *insured* for direct *financial loss* sustained by the *insured* as a result of the *insured* or a *financial institution* acting on behalf of the *insured* having:

- 3.13.1 complied or failed to comply with the request of any client or customer of the *insured*, or an authorised agent of such client or customer, to stop payment on; or
- 3.13.2 refused to pay any *cheque* or *draft* made or drawn upon or against the *insured* by such client or customer or by an authorised agent of such client or customer.

Provided always that there will be no such indemnity where the *insured* have acted in accordance with an *instruction* received by or on behalf of or at the behest of any *regulator*.

4. Optional Extension of Cover

Subject to all the terms, conditions and limitations of this policy, if the *schedule* includes this Optional Extension of Cover as insured, cover is extended as follows:

4.1 International Program extension

4.1.1 Agreement clause

This policy is part of an *international program* and the *policyholder* of this policy on behalf of all *insureds of international program policies* has agreed to specific terms, conditions, exclusions and limitations for this policy and all *international program policies*, including but not limited to the addition of a *non aggregation of limits agreement*.

It is agreed that all *international program policies* must be read in this context.

4.1.2 Financial interest cover for certain foreign jurisdictions

The *insurer* will indemnify the *policyholder* for the *financial interest of the policyholder* in connection with the *financial loss* of any *insured* located in any *restricted foreign jurisdiction* as arises from or is a consequence of *financial loss* which is *discovered* by such *insured* during the *period of insurance* or the *extended discovery period* (if applicable) and reported to the *insurer* in accordance with General Condition 6.8 'Notification of Financial Loss', resulting directly from any *wrongful fraudulent act* of:

- (a) any *employee* including any person acting in collusion with such *employee* but only if Insuring Clause 1.1 of this policy is covered; or
- (b) any *third party* other than any *employee* or any person acting in collusion with such *employee* but only if Insuring Clause 1.2 of this policy is covered;

but only if and to the extent that:

- (i) such *financial loss* would fall within an Insuring Clause or Extension of Cover provided under this policy but for the fact that this policy is not permitted to provide coverage for such *financial loss* due to the law of such *restricted foreign jurisdiction*; and
- (ii) *international program policies* for such *restricted foreign jurisdiction* have not been purchased; or
- (iii) *international program policies* for such *restricted foreign jurisdiction* have been purchased, but the limit of liability of such *international program policies* is not sufficient to cover the entire *financial loss* of such claim.

Each *insured* accepts that any payment by the *insurer* to the *policyholder* pursuant to this clause discharges any liability which the *insurer* might have had to such *insured* in respect of the relevant liability.

4.1.3 Specific Definitions (applicable to this Optional Extension of Cover)

- (a) *Aggregate limit of liability* means and is the maximum *limit of liability* of this policy and all *international program policies* (combined) and all payments of the *insurer* and Zurich for all *financial loss* under this policy and all *international program policies* (or any combination of the above mentioned policies) are added up and are limited to the amount of the *limit of liability* of this policy as indicated in the *schedule*.
- (b) *Financial interest of the policyholder* (as set out in 4.1.2 'Financial interest cover for certain foreign jurisdictions' above) means and is deemed to represent the equivalent to the *financial loss* of any *insured* (other than the *policyholder*):
 - (i) located in a *restricted foreign jurisdiction* in respect of a *financial loss* claim, sustained by or made against such *insured* (other than the *policyholder*); and/or

- (ii) in respect of a *financial loss* claim, sustained by or made against such *insured* (other than the *policyholder*), but only in the case and to the extent that either such *policyholder* or the *insured* (other than the *policyholder*) has paid or is contractually obliged to pay such *financial loss* to the *insured* (other than the *policyholder*),

subject to all the terms, conditions, exclusions and limitations of this policy.

The *financial interest of the policyholder* arises by virtue of:

- (iii) the loss that it incurs in indemnifying, or by having the contractual obligation to indemnify, any *insured* in respect of the *financial loss* of such *insured* located in *restricted foreign jurisdiction* covered under this policy; or
- (iv) the fact that any of the *insureds* located in a *restricted foreign jurisdiction* remain uninsured under any *international program policies* purchased for such *insured* (other than the *policyholder*) in excess of such local policy's limits of liability, subject to local legal restrictions or limitations,

subject to all other terms, conditions, exclusions and limitations of this policy.

- (c) *Foreign jurisdiction* means any jurisdiction other than the country where this policy is issued.
- (d) *International program* means a compilation of different locally issued *international program policies* which all have one common goal, to cover the *insureds* of these *international program policies* world-wide on terms, conditions and limitations agreed to by the *policyholder* of this policy on behalf of all *insureds* under such *international program policies*.
- (e) *International program policies* means the policies listed in the *schedule* which all have one common goal, to cover the *insureds* of such *international program policies* world-wide on terms, conditions and limitations agreed to by the *policyholder* of this policy on behalf of all *insureds* under such *international program policies*.
- (f) *Non aggregation of limits agreement* means:
 - (i) the *limit of liability* under this policy will be reduced by any *financial loss* paid or which is agreed to be paid under any other *international program policies* and the limit of liability under any and all *international program policies* will be reduced by any *financial loss* paid or which is agreed to be paid under this policy and any other *international program policies*; and
 - (ii) the limits of liability of each *international program policies* therefore is combined and is part of and not in addition to the *limit of liability* of this policy and each other *international program policies*;
- (g) *Restricted foreign jurisdiction* means any *foreign jurisdiction* where local risks cannot be covered by an overseas insurer not licensed in such jurisdiction;
- (h) For the purpose of this Optional Extension of Cover, Zurich means the *insurer* and any other member of the Zurich Insurance Group and/or any partners of Zurich Insurance Group designated by Zurich Insurance Group to issue *international program policies*.

4.1.4 Specific Conditions (applicable to this Optional Extension of Cover)

- (a) Hold harmless agreement – Special conditions regarding Aggregation

In the event that the *aggregate limit of liability* is exceeded by any and all payments under this policy and/or any or all *international program policies*, the *policyholder* of this policy must reimburse the *insurer* or Zurich and/or any partners of Zurich that issued any *international program policies* in respect of any *financial loss* paid by any of the insurers of the *international program policies* in excess of the *aggregate limit of liability*.

Any amount due to the terms of this Section must be paid by the party within 30 days of notice from the other party.

(b) Non-Aggregation of Limits of Liability clause

It is understood and agreed that corresponding to the liability of the *policyholder* and any *subsidiary* to pay the aggregate premium for this policy and all *international program policies*, all contractual parties to this policy and all *international program policies* agree that for the purpose of the calculation of the *limit of liability* of this policy and all *international program policies* (combined), all payments of *financial loss* under this policy and all *international program policies* (or any combination of the above mentioned policies) are added up and are limited to the amount of the *limit of liability* of this policy as indicated in the *schedule* (hereinafter called the *aggregate limit of liability*).

It is further understood and agreed that nothing in this Clause, Extension or policy will be construed to increase the:

- (i) limit of liability set out in the *schedule* of any *international program policies*, which remains the maximum liability of the *insurer* under such policy; or
- (ii) *insurer's limit of liability* under this policy as set out in the *schedule* of this policy which remains the maximum liability of the *insurer* under this policy.

(c) Notice and Authority for International Programs

It is agreed that the *policyholder* will act on behalf of any *subsidiary* and each and every *insured* with respect to the issuance and development of all *international program policies*, including all terms, conditions, exclusions and limitations of such *international program policies*, including, but not limited to 4.1.4 (b) above.

It is further understood and agreed that the *policyholder* will inform its *subsidiary* of any *international program policies* to be issued for such *subsidiary*.

5. Exclusions

We will not be liable to make any payment in relation to any *financial loss*:

5.1 Bills of lading and warehouse or trust receipts

alleging, arising out of the *forgery* or *fraudulent alteration* of any:

- 5.1.1 bills of lading, being documents of title issued by a carrier to the order of a shipper and transferable to another person or entity by endorsement;
- 5.1.2 warehouse or trust receipts;
- 5.1.3 documents of title or receipts similar in nature or effect or serving a similar purpose to any of the foregoing in 5.1.1 and 5.1.2 above.

This Exclusion does not apply to *financial loss* covered under Insuring Clause 1.1.

5.2 Card fraud

arising directly or indirectly from the use of credit, debit, charge, access, convenience, identification or other cards:

- 5.2.1 in obtaining credit; or
- 5.2.2 in gaining access to automated mechanical devices which, on behalf of the *insured*, disburse money, accept deposits, cash cheques, drafts or similar written instruments or make credit card *loans*; or
- 5.2.3 in gaining access to point of sale terminals, customer-bank communication terminals or similar electronic terminals of electronic funds transfer systems,

whether such cards were issued, or purport to have been issued by the *insured* or by anyone other than the *insured*, except when covered under Insuring Clause 1.1.

5.3 Confidential information

alleging, arising out of the accessing of any confidential information, except to the extent that any such confidential information is used to support or facilitate the commission of a *wrongful fraudulent act* as covered under this policy.

5.4 Corporate transactions

arising from the *insured* having acted upon any securities or written instruments by reason of or in connection with any:

5.4.1 merger, consolidation or similar acquisition with, into or by the *insured*; or

5.4.2 purchase or sale of assets or shares occasioning any change in ownership or control, whether financial or otherwise, of another business by the *insured*.

5.5 Credit default

arising directly or indirectly from or alleging the complete or partial non-payment of or default upon any *loan*, whether procured in good faith or through trick, artifice, fraud or false pretences unless such *financial loss* is covered by Insuring Clause 1.1, Definition of *computer or electronic fraud* or Definition of *document fraud*.

5.6 Fraudulent induced transfer

arising directly or indirectly from a *fraudulent induced transfer*, unless and only to the extent such *financial loss* is covered under Extension of Cover 3.4 'Fraudulent Induced Transfer'.

5.7 Indirect or Consequential loss

in respect of indirect or consequential loss of any nature, including but not limited to business interruption, loss of computer time or use or any sum representing deprivation of income, potential income, interest, dividends or profits, or damages of any type, except as provided under Extension of Cover 3.6 'Interest'.

5.8 Input of data

arising from the input of *data* by any person who had authorised access to an authentication mechanism.

This Exclusion does not apply to *financial loss*:

(i) covered under Insuring Clause 1.1; or

(ii) covered under Definition of *computer or electronic fraud*, but only where such person referred to above obtained fraudulent access beyond the level for which that person was authorised.

5.9 Insolvency of the insured

alleging, arising out of, based upon the insolvency, receivership or liquidation of the *insured*.

5.10 Loans or Trading

arising directly or indirectly from *loans* or *trading*. Unless the *insured* can prove, to a civil standard, that the *employee* who committed the *wrongful fraudulent act*, or any person in collusion with the *employee*, intended to obtain an improper financial gain. An improper financial gain does not include salary, fees, commission, bonuses, salary increases, promotions, profit sharing or other emoluments or similar employee benefits.

5.11 Mechanical and Other failure

arising from mechanical failure, faulty construction, design error, latent defect, wear or tear, gradual deterioration, electrical disturbance, *storage media* failure or breakdown or any malfunction or inadvertent error in programming or inadvertent errors or omissions in processing.

5.12 Money laundering

alleging, arising out of, based upon or attributable to or in any way connected with any actual or alleged act of *money laundering*.

5.13 Moth or Vermin

arising from the loss of or damage to any property whatsoever (including *property*) by reason of moth or vermin.

5.14 Natural Disasters

arising from the loss of or damage to any property whatsoever (except *property*) resulting directly or indirectly from typhoon, hurricane, cyclone, volcanic eruption, earthquake, subterranean fire or other convulsion of nature and contemporaneous or ensuing loss or damage by fire or looting.

5.15 Nuclear

alleging, arising out of, based upon or attributable to, or in any way involving directly or indirectly, the hazardous properties of nuclear material including but not limited to the actual, alleged, threatened or potential:

5.15.1 ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or

5.15.2 the radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.

5.16 Off the shelf software

arising from *computer programs* which were corrupted or which contained fraudulent or malicious features at the time of their acquisition from a *vendor* or consultant, where those *computer programs* were developed for sale to or are sold to multiple customers.

This Exclusion does not apply where:

- (i) no other purchaser of said *computer programs* has notified the same *vendor* or consultant of the same fraudulent features during a period of 60 days before *discovery*;
- (ii) at the time of *discovery* such fraudulent features were contained solely on the *computer programs* sold to the *insured*;
- (iii) such fraudulent features were inserted subsequent to the date of acquisition by the *insured*; or
- (iv) such *financial loss* is covered under Insuring Clause 1.1.

5.17 Payments due to error

alleging or arising out of payments made or withdrawals from any customer's or depositor's account by reason of funds having been credited in error by the *insured* to such account, unless such *financial loss* is covered by Insuring Clause 1.1 or Definition of *erroneous transfer fraud*.

5.18 Pollution

alleging, arising out of, based upon the actual, alleged or threatened discharge, dispersal, release or escape of, or records concerning pollutants; or any direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise pollutants.

5.19 Property in post

resulting from the loss of, damage to, or destruction of property and *property* while in the custody of any postal service except registered delivery or recorded post or when covered under Insuring Clause 1.1.

5.20 Subsequent wrongful fraudulent acts of an employee

arising from a *wrongful fraudulent act* of an *employee* committed after the time at which a *responsible officer* (not being, or acting in collusion with, that *employee*) became aware of a previous or related *wrongful fraudulent act* of that *employee* unless:

5.20.1 the *insured* has taken a decision, endorsed by a senior executive officer and representatives of the *insured's* corporate security, insurance, risk management and human resources departments that the *employee's* employment is not to be terminated or the *employee* is to be employed, provided the *insured* retains signed and dated records documenting the relevant decision and its endorsement and makes them available to us; and

5.20.2 we have agreed in writing to waive the application of this Exclusion.

5.21 Unpaid items

arising directly or indirectly from payments made or withdrawals from any customer's or depositor's account against items of deposit which are not finally paid for any reason unless such *financial loss* is covered under Insuring Clause 1.1, Definition of *computer or electronic fraud* or Definition of *document fraud*.

5.22 Unsold travellers cheques

arising from the loss of unsold travellers' cheques placed in the custody of the *insured* with authority to sell unless the *insured* is legally liable for any *financial loss* arising from such travellers' cheques which are later paid or honoured by the issuer thereof, or when covered Insuring Clause 1.1.

5.23 War and Terrorism

arising out of directly or indirectly, based upon or attributable to or in any way involving war, terrorism, invasion, act of foreign enemy, hostilities or warlike operations (whether war has been declared or not), civil war, rebellion, revolution, insurrection, civil commotion assuming the proportion of or amounting to a popular uprising, military or usurped power, martial law, riot or the act of any lawfully constituted authority.

6. General Conditions

6.1 Basis of Settlement

6.1.1 Securities

In no event will we be liable in respect of *securities* for more than the actual cash value thereof at the close of business on the business day next preceding the day on which the *financial loss* was *discovered*.

6.1.2 Books of Accounts and Records

In the case of loss of or damage to *property* consisting of books of accounts or other records (other than *electronic data*) used by the *insured* in the conduct of their business, we will be liable under this policy only if such books or records are actually reproduced and then for not more than 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* which has been furnished by the *insured* in order to reproduce such books and other records.

6.1.3 Electronic data

In the event that a *wrongful fraudulent act* as covered under this policy results in the destruction, erasure or theft of *electronic data* used by the *insured* while such *data* is stored within the *insured's computer systems*, we will be liable under this policy if such *data* is actually reproduced and cover hereunder will only apply to the cost of labour for the actual transcription or copying of *data*, which has been furnished by the *insured* in order to reproduce such *electronic data*.

6.1.4 Damage to property

In the case of *damage or impairment to property* and *damage to offices and contents*, we will not be liable for more than the actual cost of repairs with material of like quality and value.

6.1.5 Foreign currency

If a foreign currency (being a currency other than the currency in which this policy is written) is involved in a *financial loss* sustained by the *insured* under this policy, then for the purpose of any calculation required in the settlement of a *financial loss*, the rate of exchange is the officially published rate on the date of such settlement.

6.1.6 Other property

In no event will we be liable in respect of other *property* (not included in the above), for more than the actual cash value thereof at the time of *financial loss* or for more than the actual cost of repairing such other *property* or of replacing same with *property* or material of like quality and value, provided however, the actual cash value of such other *property* held by the *insured* as a pledge, or as collateral for an advance or *loan*, will be deemed not to exceed the value of the *property* as determined and recorded by the *insured* when making the advance or *loan*, nor, in the absence of such record, the unpaid portion of the advance or *loan* plus accrued interest thereon at legal rates.

6.2 Cancellation

6.2.1 The *policyholder* may cancel this policy at any time by giving notice in writing to us.

6.2.2 We may cancel this policy in any of the relevant circumstances set out in the Insurance Contracts Act 1984 (Cth), such cancellation to take effect within 30 days from the time of notification received by the *policyholder*.

6.2.3 Provided there has been no notification of a *financial loss* or *claims* paid under this policy, upon cancellation by the *policyholder* the pro rata premium for the unexpired *period of insurance* will be refunded to you subject to retention by us of reasonable reinsurance, administration and cancellation costs incurred by us as well any tax, duty or governmental charges paid or owing for which we are unable to obtain a refund.

6.2.4 Upon cancellation by us a refund of the pro rata premium for the unexpired *period of insurance* will be refunded to you.

6.3 Change in Control

The cover provided by this policy will only apply in respect of *wrongful fraudulent acts* committed prior to the effective date of a *change in control*.

The *policyholder* must give us written notice of such *change in control* as soon as reasonably practicable. All notices must be given to the Financial Lines Underwriter at the appropriate Zurich branch office. Notice will be deemed to be received and effective upon actual receipt thereof by the addressee.

Notwithstanding the effect on cover caused by such *change in control* there will be no entitlement to cancellation of this policy by any party (other than for non payment of premium) after the effective date of such *change in control*.

6.4 Deductible

We will only be liable for the amount of any *financial loss* that exceeds the *deductible*.

The *deductible* is not part of our liability for any *financial loss*.

A single *deductible* will apply to all *financial loss* arising from a single *wrongful fraudulent act* and will be subject to no aggregate limitation.

6.5 Governing law and Policy interpretation

6.5.1 The validity and interpretation of this policy will be governed by and construed in accordance with the laws of the country named in the *schedule*;

6.5.2 Headings are descriptive only, not an aid to interpretation;

6.5.3 Singular includes the plural, and vice versa;

6.5.4 The male includes the female and neuter;

- 6.5.5 All references to specific legislation include amendments to and re-enactments of such legislation and similar legislation in any jurisdiction in which a *financial loss* is *discovered*; and
- 6.5.6 References to positions, offices or titles include their equivalents in any jurisdiction in which a *financial loss* is *discovered*.

6.6 Innocent non-disclosure

We will not seek to avoid or repudiate this policy on the grounds of non-disclosure or misrepresentation other than fraudulent non-disclosure or fraudulent misrepresentation.

6.7 Limit of Liability

The *limit of liability* stated in the *schedule* is our maximum aggregate liability payable under this policy during the *period of insurance* and the *extended discovery period* (if applicable). The *limit of liability* and any sub-limit of liability apply over and above the applicable *deductible*.

The limit of liability for any *extended discovery period* will be part of, and not in addition to, the limit of liability for the *period of insurance*.

Our aggregate liability for claims by any or all persons, companies or other entities forming part of the insured will not exceed the amount for which we would be liable if all claims were made by any one of the persons, companies or other entities forming part of the insured.

Any sub-limit of liability set forth in this policy (including the schedule) is the most we will pay in the aggregate under this policy in respect of any insurance cover or extension to which it applies and is part of and not in addition to the *limit of liability* as stated in the schedule.

6.8 Notification of Financial Loss

The *insured* must give us written notice of any *financial loss discovered* by the *insured* during the *period of insurance*, or the *extended discovery period* (if applicable), as soon as is reasonably practicable and no later than 60 days after *discovery*.

Written notice must include a description of the *financial loss*, and the date and manner in which the *insured* first became aware of the *financial loss*.

Any notice under or in connection with this policy that relates to *financial loss* must be provided in writing to:

The Financial Lines Claims Manager
Zurich Australian Insurance Limited
PO Box 677 North Sydney 2059

Or by email to:

The Financial Lines Claims Manager
fl.claims@zurich.com.au

Any notification, sent by post or email, will be effective from the date received by Zurich.

6.9 Other insurance

6.9.1 The insured must notify us of the existence of any other insurance policy or equivalent indemnity or cover available to the insured in respect of *financial loss* covered under this policy and provide details of it as soon as is reasonably practicable.

6.9.2 This policy will only cover *financial loss* to the extent that the amount of *financial loss* arising from *any single wrongful fraudulent act (or related series of wrongful fraudulent acts)* in excess of any indemnity or cover available to the *insured* in respect of those *wrongful fraudulent acts* under any other policy effected by a person on behalf of the *Insured* (but not as the *Insured's* agent) or under which any *insured person* or the company is a beneficiary.

6.9.3 Condition 6.9.2 does not apply to the other policy if it is written only as specific excess insurance over the *limit of liability* provided in this policy.

6.10 Payments in respect to Goods and Services Tax

When we make a payment under this policy for the acquisition of goods, services or other supply, we will reduce the amount of the payment by the amount of any input tax credit that the *insured* are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999, in relation to that acquisition, whether or not that acquisition is actually made.

When we make a payment under this policy as compensation instead of payment for the acquisition of goods, services or other supply, we will reduce the amount of the payment by the amount of any input tax credit that the persons are, or will be, or would have been entitled to under A New Tax System (Goods and Services Tax) Act 1999 had the payment been applied to acquire such goods, services or supply.

6.11 Policy signature

This policy is only binding upon us if it is signed in the *schedule* by our authorised representative.

6.12 Proof of loss

The *insured* must provide us with proof of its *financial loss* in support of its claim under this policy, by way of a report prepared to the best of its knowledge at that time as soon as reasonably practicable and no later than six months after *discovery*, unless the insured indicates to Zurich the reason(s) why it is not possible to provide such proof of loss within six months and an extension of time is agreed between Zurich and the insured. The *insured* may not rely upon a proof of loss which is based on a profit and loss computation or comparison.

6.13 Recoveries

In the case of recovery by either the *insured* or us on account of any paid *financial loss*, the amount recovered, will be applied as follows:

- 6.13.1 firstly, for any costs and expenses reasonably and necessarily incurred by the relevant party in relation to the recovery;
- 6.13.2 secondly, to reimburse the *insured* for any part of a covered *financial loss* as submitted for payment to us which exceeds the *limit of liability*;
- 6.13.3 thirdly, to reimburse us for any *financial loss* paid under the policy; and
- 6.13.4 finally, to reimburse the *insured* for any *financial loss* that falls under any *deductible*.

6.14 Sanctions regulation

Notwithstanding any other terms or conditions under this policy, we will not be deemed to provide coverage and will not make any payments nor provide any service or benefit to any *insured* or any other party to the extent that such cover, payment, service, benefit and/or any business or activity of the *insured* would violate any applicable trade or economic sanctions, law or regulation.

6.15 Severability and Non-imputation

Where this policy insures more than one party, the application for insurance is construed as a separate application by each *insured*. When determining whether coverage is available under this policy any failure by an *insured* to comply with the duty of disclosure will not be imputed to any other *insured*, where the other *insured* is innocent of and had no prior knowledge of the failure.

6.16 Subrogation

Upon payment of any *financial loss*, we will be subrogated to all rights and remedies of the *insured* in respect of such *financial loss* and the *insured* must not do anything to prejudice those rights.

We may elect to pursue and enforce such rights in the name of the *insured* who must provide us with all reasonable assistance and co-operation, including the execution of all papers required and must do everything that may be necessary to secure any rights and including the execution of any *documents* required to enable us effectively to bring suit in the name of the *insured*, whether such acts are or become necessary before or after payment by us. Where we elect to exercise these rights, we will, where it is reasonable to do so, consult with you and take into account your interests or concerns regarding enforcement of such rights.

We will not exercise any such rights against:

6.16.1 any *employee*, director or officer of the *insured* in respect of *financial loss* unless such *financial loss* arises from or is contributed to by any *wrongful fraudulent act* of such *employee*, director or officer of the *insured*; or

6.16.2 the *insured*,

except to the extent that such *employee*, director or officer is (or would be but for the liability of the *insured* or any coverage provided under this policy) entitled to indemnity under a separate policy of insurance regardless of whether any amount is paid under such other policy in respect of the acts or omissions complained of.

6.17 Territorial scope of cover

The insurance provided this policy will only cover *financial loss* resulting directly from any *wrongful fraudulent act* committed within the territory specified in the *schedule*.

Zurich Australian Insurance Limited

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