

Crime Policy

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Introduction

We are committed to complying with the Fair Insurance Code as published by the Insurance Council of New Zealand.

This means **We** will:

- (a) provide insurance contracts which are understandable and show the legal rights and obligations of both **Us** and the **Policyholder**;
- (b) explain the meaning of legal or technical words or phrases;
- (c) explain the special meanings of particular words or phrases as they apply in the **Policy**;
- (d) manage claims quickly, fairly and transparently;
- (e) clearly explain the reason(s) why a claim has been declined;
- (f) provide **Policyholders** with a written summary of **Our** complaints procedure as soon as disputes arise and advise them how to lodge a complaint and tell them about the Insurance and Financial Services Ombudsman Scheme.

Section 1: Coverage

In consideration of the payment of the premium to **Us** and in reliance on the written proposal and any other underwriting information provided, which will be deemed to be incorporated into and to be the basis of this **Policy**, **We** agree to provide insurance on the terms set out in this **Policy**.

1.1 Your Loss

We will indemnify **You** for any **Loss** incurred by **You** which results directly from any **Criminal Acts** first **Discovered** during the **Period of Insurance** or any **Extended Discovery Period** (if applicable) and notified to **Us** in accordance with Condition 5.5 'Discovery and Notice' of this **Policy**.

1.2 Limit of Indemnity

- (a) The **Limit of Indemnity** will be **Our** maximum liability payable under this **Policy** for each covered **Loss** sustained by **You** and **Discovered** during the **Period of Insurance** and the **Extended Discovery Period** (if applicable). The **Limit of Indemnity** will apply over and above the applicable **Excess**.
- (b) All indemnification and sub-limits provided by the extensions pursuant to the Automatic Coverage Clauses of this **Policy** will be part of, and not in addition to the **Limit of Indemnity** for the **Period of Insurance**, including the **Limit of Indemnity** for any **Extended Discovery Period** (if applicable).
- (c) Where more than one **Loss** arises from one **Criminal Act** or from a series of **Criminal Acts** which are connected causally with another or which are by any means inter-related or inter-connected, they will be deemed to be a single **Loss** notwithstanding the number of **Loss** notifications that have been made and such single **Loss** will be attributed solely to the **Period of Insurance** or the **Extended Discovery Period** (if applicable) during which the first **Loss** arising from such series of **Criminal Acts** was **Discovered**.
- (d) **Our** aggregate liability for **Loss** or **Losses** sustained 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 **Losses** were sustained by any one of the persons, companies or other entities forming part of the **Insured**.

1.3 Excess

- (a) **We** will be liable only for the amount of each **Loss** or claim for indemnity under this **Policy** that exceeds the **Excess**.
- (b) A single **Excess** will apply to all **Losses** or claims for indemnity arising from any **Criminal Act** or series of **Criminal Acts** which are causally connected with another or which are by any means inter-related or inter-connected.
- (c) The **Excess** will be paid by **You** and will be the first amount of **Loss** or a claim for indemnity borne by **You**.

Section 2: Automatic Coverage Clauses

To be read in conjunction with the Coverage Clauses above, and subject to the **Policy** terms. The following sub-limits and **Excesses** apply unless there is a different sub-limit or **Excess** shown in the **Schedule**. The sub-limits are included in, not in addition to, and may be less than the **Limit of Indemnity** in the **Schedule**.

2.1 Business Interruption

We will indemnify **You** for any reasonable **Additional Costs** incurred as a result of a **Loss** covered under this **Policy** provided that these **Additional Costs** are beyond **Your** usual operational costs and necessary for the restoration of the normal course of operations of **Your** business.

2.2 Care, Custody and Control

We will indemnify **You** for the **Loss** of **Property**, money or **Securities** under **Your** care, control and custody and for which **You** are legally liable.

2.3 Client Liability

We will indemnify **You** for **Loss** sustained by a **Client** from **Improper Financial Gain** committed by an **Employee** not in collusion with such **Client's** directors or employees, where such **Loss** is **Discovered** during the **Period of Insurance** or the **Extended Discovery Period** (if applicable).

2.4 Court Attendance Costs

We agree to pay up to \$250 per day for court attendance costs incurred by **You**, if **You** are legally compelled to attend a civil proceeding as a witness in connection with a **Loss** covered by this **Policy**. **Our** total aggregate liability during any one **Period of Insurance** for all court attendance costs will not exceed \$50,000 and will be part of and not in addition to the **Limit of Indemnity**.

2.5 Credit Card Fraud

We will indemnify **You** for **Loss** suffered by **You** resulting from **Credit Card Fraud** committed by a **Third Party** which direct **Loss** is **Discovered** during the **Period of Insurance** or the **Extended Discovery Period** (if applicable).

2.6 Data Reconstitution Costs

We will indemnify **You** for reasonable **Data Reconstitution Costs**.

2.7 Erroneous Fund Transfer

We will indemnify **You** for **Loss** arising from the unlawfully taking of money by a **Third Party** or **Securities** erroneously directed or erroneously transferred by **You**.

2.8 Extended Discovery Period

- (a) If this **Policy** upon termination is neither renewed nor replaced by any other policy covering the same or a similar risk, **You** will have the right to a single **Extended Discovery Period** as stated in the **Schedule** and subject to payment of the additional premium stated in the **Schedule**.
- (b) Any **Loss Discovered** during such **Extended Discovery Period** and notified to **Us** in accordance with Condition 5.5 'Discovery and Notice' of this policy, will be considered for cover, but only with respect to **Criminal Acts** committed prior to the termination date of the **Period of Insurance**.
- (c) This **Extended Discovery Period** will not apply in the event of cancellation of this **Policy** due to the non-payment of the premium.
- (d) The right to the single **Extended Discovery Period** will terminate unless written notice is given to **Us** by **You** within thirty (30) days of the effective date of the non-renewal of this **Policy**.
- (e) Once the **Extended Discovery Period** has been elected by **You** the entire premium for the **Extended Discovery Period** will be deemed earned at its commencement.

2.9 Extortion

We will indemnify **You** for any **Loss** due to **Extortion** committed by an **Employee**.

2.10 Interest

We will indemnify **You** for the amount of any interest receivable or payable by **You** resulting directly from a **Loss** covered by this **Policy**, between the time of sustaining such **Loss** and the date of **Discovery** of such **Loss**. **Our** liability

for such interest receivable or payable will be calculated by applying the average base rate in force by the New Zealand Reserve Bank.

2.11 Investigation Costs

We will indemnify **You** for **Investigation Costs** incurred by **You** which are directly related to a **Loss** covered under this **Policy**. **Our** liability under this Automatic Coverage Clause is sub-limited to the amount specified in the **Schedule**.

2.12 Legal Expenses

We will pay reasonable court costs and legal fees incurred with **Our** prior written consent in defending **You** in any legal proceeding to enforce payment of any cheque, draft, promissory note or bill of exchange or other **Financial Instrument** which was the subject of **Forgery** covered by this **Policy**.

2.13 Loss Investigator

- (a) **We** will pay the **Preliminary Expenses** on **Your** behalf, following notification by **You** of the **Discovery** of a **Loss** in accordance with Condition 5.5 'Discovery and Notice' of this **Policy**.
- (b) **You** may request the appointment of a **Loss Investigator** to assist with the investigation of the **Loss** and production of proof of **Loss**. It will be **Our** right to appoint the **Loss Investigator**.
- (c) Following the exhaustion of the **Preliminary Expenses**, if **You** continue the retainer of the **Loss Investigator**, the costs of the **Loss Investigator** may be considered under Automatic Coverage Clause 2.11 (Investigation Costs) subject to all relevant terms and conditions noted therein.

2.14 New Subsidiaries

- (a) Any entity (other than a **Financial Institution**), whether created or acquired, that becomes a **Subsidiary** during the **Period of Insurance** will be insured under this **Policy**, at no additional premium, for **Losses** for **Criminal Acts** committed after the date such entity became a **Subsidiary** and while such entity remains a **Subsidiary**, subject to the following:
 - (i) the **Subsidiary** has gross annual turnover and number of **Employees** which are less than 25% of the gross annual turnover and number of **Your Employees** at the inception date of this **Policy**; and
 - (ii) the **Subsidiary** has not, sustained a **Loss** of a type covered by this **Policy** in the last 3 years (whether insured or not) which was greater than the amount of the **Excess**.
- (b) Any newly acquired or created **Subsidiary** not meeting the above requirements acquired or created during the **Period of Insurance** will be insured under this **Policy** for a period of ninety(90) days from becoming a **Subsidiary** or until the expiry date of the **Period of Insurance**, whichever period expires first. The **Policyholder** will:
 - (i) notify **Us** in writing of the creation or acquisition of such entity;
 - (ii) provide **Us** with full underwriting information as **We** may require; and
 - (iii) agree to any additional premium and/or amendment of the provisions of this **Policy** required by **Us** relating to such **Subsidiary**.
- (b) Further, **We** will only indemnify the **Policyholder** for the **Financial Interest** for a **Loss** resulting from **Criminal Acts** committed after the date such entity became a **Subsidiary** and while such entity remains a **Subsidiary** subject to the **Policyholder** paying, when due, any additional premium required by **Us** for such new **Subsidiary**.
- (c) **We** may also agree in writing, in **Our** sole discretion and after having received all appropriate information, to indemnify the **Policyholder** for its **Financial Interest** for a **Loss** resulting from **Criminal Acts** committed prior to the date of acquisition and **Discovered** during the **Period of Insurance**. With regard to such cover for prior acts, **We** reserve **Our** right to vary the terms of this **Policy**.

2.15 Outsourcing

We will indemnify **You** for any **Loss** as a result of any fraudulent or dishonest single, continuous or repeated act(s) or a series of acts committed by employees of any company to whom **You** have outsourced services (including but not limited to payroll, computing or accountancy services) under a written contract. Provided that:

- (a) **You** are able to prove that the company which services were outsourced to had been checked for their honesty, competence and financial stability and **You** retain the right to audit their services;
 - (i) where any **Loss** caused by an **Employee** of such outsourcing company is also insured under a policy under which that **Employee** is a beneficiary or pursuant to an indemnity under a contract then this **Policy** will only cover such **Loss** to the extent that the amount of such **Loss** is in excess of the amount of such other insurance; and
 - (ii) where any **Loss** caused by an **Employee** of such outsourcing company is also covered under an indemnity agreement under which that **Employee** is a beneficiary then this **Policy** will only cover such **Loss** to the extent that the amount of such **Loss** is in excess of the amount of such indemnity agreement.

2.16 Public Relations Expenses

We will pay **Public Relations Expenses** in connection with a **Criminal Act** covered by this **Policy**, up to the sub-limit of liability specified in the **Schedule**.

2.17 Run off Cover for Ceased Subsidiaries

- (a) Where an entity is being sold or discontinued during the **Period of Insurance** and which was previously included as an insured under this **Policy**, this **Policy** will continue to indemnify the **Policyholder** for any **Loss** in connection with any **Criminal Act** which was committed whilst such entity was an insured.
- (b) This Automatic Coverage Clause 2.17(a) will not apply if the **Policyholder** has no contractual liability for **Loss** arising out of **Criminal Acts** committed prior to the date of sale or discontinuation of such former insured.

2.18 Telephone System Fraud

- (a) Cover in respect of **External Crime** is extended to cover any unauthorised access and use of **Your Telephone System** by a **Third Party** which causes **You** a **Loss**. Indemnity under this Coverage Clause is limited to toll and line charges for which **You** are liable as a result of such unauthorised access and use.
- (b) **We** will only be liable for toll and line charges incurred for a period of 45 days, inclusive from the date on which the first such unauthorised toll or line call is made.
- (c) **Our** total aggregate liability during any one **Period of Insurance** for all toll and line charges under this Coverage Clause will not exceed the Sub-limit of liability specified in the **Schedule**.
- (d) **We** will not pay anything in respect of **Loss**:
 - (i) directly or indirectly arising from **You** or any other persons inability to use the telephone system(s);
 - (ii) directly or indirectly arising from the provision of professional services of any kind; or
 - (iii) due to the voluntary giving, surrendering, sale, exchange or transfer of **Telephone System** access or usage whether legitimate or fraudulent, including but not limited to **Extortion**, trickery or profiteering.
- (e) For the purposes of this Coverage Clause, **Third Party** does not include a person or entity that previously provided or currently provides services under any contract for services, written or implied, with **You**.

Section 3: Definitions

When used in this **Policy**, the following definitions will apply:

3.1 Additional Costs mean:

- (a) renting fee for temporary replacement equipment and temporary additional premises;
- (b) costs of additional external workforce and overtime of **Employees**; and
- (c) costs related to transportation of equipment or documents, incurred by **You** during the **Indemnification Period**.

3.2 Client means:

A customer of **Yours** that **You** provide goods or services to under a written contract, for a fee or other monetary consideration.

3.3 Computer Fraud means:

Loss due to any fraudulent or dishonest misuse or manipulation by a **Third Party** of the computer systems, programs or funds transfer systems owned or operated by **You**.

3.4 Corporate Transaction means:

Any transaction involving the purchase or sale of shares, equity, debt or assets of any entity.

3.5 Counterfeit or Counterfeiting means:

The intentional imitation of any currency notes or coins such that **You** are deceived on the basis of the quality of the imitation to believe that the imitation is the authentic original currency.

3.6 Credit Card Fraud means:

The **Forgery** or alteration of, on or in, any written instrument required in connection with any credit card issued to **You**, to any partner or any **Director or Officer**, or to any **Employee**.

3.7 **Criminal Acts** means:

Any **Internal Crime** or **External Crime**.

3.8 **Data Reconstitution Costs** means:

The reasonable costs (other than remuneration payable to any **Employee**, partner, **Director or Officer**, and **Your** cost of their time or costs or overhead) incurred in reproducing or amending the software programs or systems where such reproducing or amendment is necessary to correct damages caused to the programs or to amend the security codes following a **Criminal Act** in respect of the use of the computer hardware or software programs or systems owned and operated by **You** and which was the subject of a **Loss** under this **Policy**.

3.9 **Director or Officer** means:

Any natural person who was or now is a director or officer of **Yours** or any **Subsidiary** (or the equivalent position in any jurisdiction) or who becomes a director or officer of **Yours** or any **Subsidiary** (or the equivalent position in any jurisdiction) during the **Period of Insurance**, including de jure, de facto and shadow directors.

3.10 **Discovered or Discovery** means:

The moment at which **You** or any partner, **Director or Officer**, departmental head or other senior manager or the equivalent thereof, not in collusion with any person(s) committing the **Criminal Act**, becomes aware of any fact or facts that give reasonable grounds to believe that **Loss** as insured under this **Policy** has been or may be incurred even though the exact amount or details of the **Loss** may not then be known.

3.11 **Employee** means:

- (a) any natural person who is employed under a contract of service with **You** (which will include the first 60 days after the cessation of such service) in the ordinary course of **Your** business whom is compensated by payment of salary, wages or commissions and has the right to govern and direct in the performance of such service;
- (b) any natural person who works under **Your** supervision, who is subject to the same controls and procedures as the person mentioned under (a) above;
- (c) any natural person who is a trustee, fiduciary, administrator or officer of any **Superannuation Fund**;
- (d) any natural person who is a volunteer or temporary personnel whilst performing acts within the scope of an Employee's normal duties;
- (e) any natural person who is a retired employee of **Yours** working under a written contract; or
- (f) any natural person whose identity **You** are unable to discover, but whose **Criminal Act** caused a **Loss** under this **Policy** and the evidence proves that the **Loss** was sustained due to a **Criminal Act** of a person under (a), (b), (c), (d) or (e) above.

But excluding:

- (i) any partner of **Yours** (where the **Policyholder** or its **Subsidiary** is a partnership);
- (ii) any Employee who, at the time of **Loss**, controls more than 20% of **Your** voting rights;
- (iii) any director or executive of **Yours**, when acting in their capacity as a director of **Yours**, and not in his or her capacity as an Employee of **Yours**; and
- (iv) any external auditor, broker, factor, commission merchant, consignee, contractor, other agent, representative, or equivalent thereof.

3.12 **Excess** means:

The amount stated in the **Schedule**, which will be **Your** responsibility, as applicable, in respect of each **Loss** or claim for indemnity under the **Policy**.

3.13 **Extended Discovery Period** means:

The relevant period of cover specified in the **Schedule**.

3.14 **External Crime** means:

Any fraudulent or dishonest single, continuous or repeated act(s) or a series of acts committed by a **Third Party** of:

- (a) **Theft**;
- (b) **Forgery**;
- (c) **Fraudulent Alteration**;
- (d) **Counterfeiting**;
- (e) **Computer Fraud**; or

- (f) crime not otherwise insured or excluded under this definition where the **Third Party** obtained **Improper Financial Gain** and is found guilty and convicted by a final judgment in a recognised criminal court of law of such criminally sanctioned act.

External Crime will in no event mean:

- (a) **Corporate Transaction**;
- (b) **Voluntary Exchange or Purchase** unless covered under **Forgery, Fraudulent Alteration, Counterfeiting or Computer Fraud**; or
- (c) **Investment Activities**.

3.15 Extortion means:

Any threat to personally injure **Employees or Directors or Officers** or their family members, or to damage or destroy any **Property** (including computer systems, software or programs) owned by **You** or for which **You** are legally liable, provided that prior to surrender of any money, **Securities** or **Property**, the person receiving the threat has made a reasonable effort to report the threat to another **Employee or Director or Officer**, and **You** have made a reasonable effort to report the threat to the relevant authority.

3.16 Financial Institution means:

Any bank including any merchant or investment bank, finance company, insurance or reinsurance company (other than a captive owned by **You**), mortgage bank, savings and loan association, building society, credit union, stockbroker, investment trust, asset management company, fund manager or any entity established principally for the purpose of carrying on commodities, futures or foreign exchange trading or any other similar entity.

3.17 Financial Instrument means:

Cheques, drafts or similar written promises, orders or directions to pay a certain sum of money that are made, drawn by or drawn upon **You** or by anyone acting or purporting to be acting as **Your** agent.

3.18 Financial Interest means:

The financial interest of the **Policyholder** which is deemed to be the equivalent of a **Loss** sustained by **You**.

3.19 Forgery means:

- (a) the signing of another natural person's name; or
- (b) the endorsing or amending without authority, of any **Financial Instrument** given or received by **You** with the intent to deceive in consequence of which **You** have acted or transferred funds or goods. Mechanically or electronically produced or reproduced signatures will be treated as hand written signatures.

3.20 Fraudulent Alteration means:

A material alteration to any **Financial Instrument** for a fraudulent or dishonest purpose by a person other than the person who was authorised to sign such **Financial Instrument**.

3.21 Improper Financial Gain means:

Any person gaining any **Property**, money or **Securities** from **You** to which that person was not legally entitled. Improper Financial Gain will in no event include salaries, bonuses, fees, commissions, promotion, emoluments or other remuneration.

3.22 Insured means:

- (a) the **Policyholder**;
- (b) any **Subsidiary**; and
- (c) any employee **Superannuation fund**.

'**You**' and '**Your**' is also used in this policy to mean one or more of the Insured.

3.23 Indemnification Period means:

The period of 90 days commencing immediately after the **Waiting Period**.

3.24 Internal Crime means:

Any fraudulent or dishonest single, continuous or repeated act(s) committed by an **Employee** acting alone or in collusion with others which causes **You** a **Loss**.

3.25 Investigation Costs means:

All reasonable and necessary costs incurred by **You** to establish the amount of a **Loss** (other than remuneration payable to any **Employee**, partner, **Director or Officer**, cost of their time or **Your** costs or overhead) with **Our** written consent in connection with a covered **Loss** to be paid under this **Policy** where the **Loss** exceeds the **Excess**.

3.26 Investment Activities means:

The act or purported act of investing or trading in **Securities**, commodities, futures or foreign exchange.

3.27 Limit of Indemnity means:

The Limit of Indemnity stated in the **Schedule**.

3.28 Loss means:

The direct financial loss of any **Property**, money or **Securities** sustained by **You** as a direct result of a **Criminal Act** and will include **Investigation Costs** and **Data Reconstitution Costs**.

3.29 Loss Investigator means:

An investigator and/or forensic expert appointed by **Us**.

3.30 Period of Insurance means:

The Period of Insurance stated in the **Schedule** and any extension thereof which may be agreed between **Us** and the **Policyholder**.

3.31 Policy means:

This document, the **Schedule** and any endorsements issued by **Us**.

3.32 Policyholder means:

The legal entity designated in the **Schedule**.

3.33 Preliminary Expenses means:

Up to 8 hours of time spent by a **Loss Investigator** assisting **You** with the investigation of **Your Loss** and the production of their proof of **Loss**.

3.34 Property means:

Tangible property of **Yours** other than money or **Securities**.

3.35 Public Relations Expenses means:

The reasonable fees, costs charges and expenses of a public relations firm or consultant, crisis management firm or law firm which **You** may engage, with **Our** written consent, to prevent or limit the adverse effects of negative publicity in connection with a **Criminal Act** covered by this **Policy**.

3.36 Securities means:

Any bond, debenture, note, share, stock or other equity or security for debt, and will include any certificate of interest or participation in, receipt for, warrant or other right to subscribe to or to purchase, voting trust certificate relating to, or other interest in any of the foregoing items representing money or **Property**. **Securities** will not include money or **Property**.

3.37 Schedule means:

The Schedule attaching to and forming part of the **Policy**, including any Schedule substituted for the original Schedule.

3.38 Subsidiary means:

- (a) Any company or other legal entity over which the **Policyholder** exercises effective governance or control or in respect of which the **Policyholder** directly or indirectly:
 - (i) controls or controlled the composition of the board of directors;
 - (ii) controls or controlled more than half of the voting power; or

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- (iii) holds or held more than half of the issued share capital or other ownership of the entity, and will in any event include any company or legal entity whose financial accounts are required to be consolidated with those of the **Policyholder** pursuant to the Companies Act 1993 (NZ) or the applicable New Zealand accounting standard and any incorporated joint venture over which **You** exercise effective management and control.
 - (b) Cover for any Subsidiary will only apply in respect of **Loss** arising out of any **Criminal Act** committed whilst such entity is a Subsidiary of the **Policyholder**.

3.39 Superannuation Fund means:

Any superannuation fund established and sponsored solely by **You** and solely to provide retirement benefits to **Your** past, present or future **Employees, Directors or Officers** or their respective beneficiaries.

3.40 Telephone System means:

Your interconnected multiple telephone system or Private Automatic Branch Exchange (PABX) system, including remote access, voicemail, auto attendants and automated call directors, that is owned or exclusively leased by **You** and located on **Your** premises for the purposes of telecommunications.

3.41 Territorial Limits means:

The territorial limits specified in the **Schedule**.

3.42 Theft means:

The unlawful permanent deprivation of money, **Securities** or **Property**, whether from **Your** premises or in transit or otherwise. For the avoidance of doubt, **Theft** includes robbery.

3.43 Third Party means:

Any person or entity other than **You**, not being an **Employee** or acting in collusion with an **Employee**, and not being excluded from the definition of **Employee**.

3.44 Voluntary Exchange or Purchase means:

The voluntary giving or surrendering (whether or not such giving or surrendering is induced by deception) of money, **Securities** or **Property** in any exchange or purchase.

3.45 Waiting Period means:

The period of 48 hours starting from **Discovery**.

3.46 We, Us or Our means:

Ando Insurance Group Limited on behalf of the underwriters noted in the **Schedule**.

3.47 You or Yours means:

- (a) The **Policyholder**;
- (b) Any **Subsidiary**; and
- (c) Any **Superannuation Fund**.

Section 4: Exclusions

We will not be liable to indemnify **You** in respect of any claim under this **Policy** in respect of any:

4.1 Consequential Loss

Consequential loss directly or indirectly arising from or in connection with any **Loss**, unless covered under Automatic Coverage Clauses: 2.1 'Business Interruption', 2.4 'Court Attendance Costs', 2.6 'Data Reconstitution Costs', 2.10 'Interest', 2.11 'Investigation Costs', 2.12 'Legal Expenses', 2.13 'Loss Investigator' or 2.16 'Public Relations Expenses'.

4.2 Fire

Loss caused by any fire.

4.3 Intellectual Property Rights and Trade Secrets

Loss of or arising from the accessing of any confidential information including but not limited to trade secrets, computer programs, customer information, patents, trademarks, copyrights or processing methods, except to the extent that any such information is used to support or facilitate the committing of a **Criminal Act** covered by this **Policy**.

4.4 Kidnap and Ransom

Loss arising from or in connection with kidnap, ransom or any threat thereof.

4.5 Known Criminal Acts

Loss caused by any **Employee** who **You** were aware had previously committed a criminal act before or after the commencement date of employment by **You**.

4.6 Specific Documents

Loss in connection with the **Forgery**, **Counterfeiting** or **Fraudulent Alteration** of, on or in, any account receivable, or assignments thereof, bills of lading, warehouse or trust receipts, or receipts serving a similar purpose. However, this exclusion will only apply to **External Crime**.

4.7 Territorial Limits

Loss arising from a **Criminal Act** occurring outside of the **Territorial Limits**.

4.8 Trade Finance and Trade Loans

- (a) **Loss** resulting from the full or partial non-payment of or default under any:
- (i) credit agreement, extension of credit or hire purchase agreement;
 - (ii) loan or transaction in the nature of a loan;
 - (iii) lease or rental agreement; or
 - (iv) invoice, account, agreement or any other evidence of debt.
- (b) However, this exclusion will only apply to **External Crime** and then will not apply to any **Loss** where **You** have relied or acted upon any document that contains **Forgery**, **Fraudulent Alteration** or **Counterfeit** of currency notes or coins.

4.9 War

Loss arising out of the consequence of war, invasion, act of foreign enemy, hostilities (whether war be declared or not), civil war, terrorism, rebellion, revolution, insurrection or military or usurped power or confiscation, nationalisation, requisition, destruction of or damage to **Property** by or under the order of any government or public or local authority.

Section 5: Conditions

5.1 Alteration of Risk

Every change materially affecting the facts, circumstances, degree or amount of risk existing at the commencement of this insurance or at any subsequent renewal date will be notified in writing to **Us** as soon as such change comes to **Your** notice or any of **Your** officers or representatives. On receipt of such notice **We** may vary the terms of this **Policy** and/or charge such additional premium as **We** may determine appropriate.

5.2 Assignment

This **Policy** and any rights under it will not be assigned without **Our** prior written consent.

5.3 Cancellation

- (a) Method of cancellation:
 - (i) **You** may cancel this **Policy** at any time by notifying **Us** in writing.
 - (ii) **We** may cancel this **Policy** at any time by giving **You** 30 days' notice in writing of the date from which cancellation is to take effect. Such notification is to be delivered personally or posted by registered mail to **You** at the address last notified to **Us**. Proof of mailing is sufficient proof of notification.
- (b) Adjustment of premium:
 - (i) After cancellation by **You**, **We** will retain or be entitled to the premium for the period during which this **Policy** has been in force based on **Our** cancellation rates.
 - (ii) After cancellation by **Us**, **You** are entitled to a pro-rata refund of the premium.

5.4 Change in Control

- (a) If during the **Period of Insurance** a Change in Control occurs which results in:
 - (i) the liquidation (whether voluntary or compulsory) of the **Policyholder** or the appointment of a trustee in bankruptcy, receiver, or liquidator (or similar official or person) for the **Policyholder**; or
 - (ii) control of the **Policyholder** being taken over by any government or by officials appointed by any government or local authority;(hereafter called 'Change in Control'), then the cover provided by this **Policy** will only apply to **Criminal Acts** which occurred prior to the effective date of such Change in Control and which were first **Discovered** during the **Period of Insurance** and notified to us in accordance with Condition 5.5 'Discovery and Notice' of this **Policy**.
- (b) The **Policyholder** will give written notice to **Us** of such Change in Control as soon as reasonably practicable. Notwithstanding the effect on cover caused by such a Change in Control there will be no entitlement to cancellation of this **Policy** by any party hereto and the entire original premium for this **Policy** will be deemed to have been fully earned as of the date of the Change in Control.

5.5 Discovery and Notice

- (a) As a condition of coverage **You** will, upon **Discovery**, provide written notice to us within 90 days of such **Discovery**.
- (b) Written notice will include but not be limited to full particulars as to dates and persons involved, the date and manner in which **You** first became aware of the matters underlying the **Loss**.
- (c) All notices under any provision of the **Policy** must be in writing and must be emailed to:
GM Claims – Ando Insurance Group Limited
LiabilityClaims@Ando.co.nz
Any notification sent by email, will be effective from the date received by Ando.

5.6 Fraudulent Notifications

If any notification under this **Policy** is in any respect fraudulent, either made by **You** or any one acting on **Your** behalf, to obtain any benefit under this **Policy** or if any **Loss** has been caused or contributed to by **Your** willful act or with **Your** connivance, all benefits under this **Policy** are forfeited and **You** must immediately reimburse **Us** for any payments that **We** have made in respect of such notification.

5.7 Knowledge

Knowledge possessed or **Discovered** by any person, company or entity forming part of the **Policyholder** or by any partner, **Director or Officer**, departmental head or other senior manager or the equivalent thereof will be deemed to constitute knowledge possessed or **Discovery** made by all other persons, companies or entities forming part of the **Policyholder**.

5.8 Other Insurance

- (a) Upon giving notice of any **Loss**, **You** agree to provide **Us** with written details of any other insurance that may cover or partially cover that **Loss**.
- (b) In the event that **You** hold other insurance cover with another insurer in respect of any **Loss** then the indemnity under this **Policy** will not be available until the limit of indemnity under any other policy has been exhausted.

5.9 GST

Where, on receiving any indemnity payment under this **Policy**, **You** are liable to pay tax under section 5(13) of the Goods and Services Tax Act 1985 (or any statutory amendment or re-enactment of the section of Act), **We** will indemnify **You** for the cost of that tax. The indemnity under this clause is in addition to the applicable **Limit of Indemnity**.

5.10 Policy Disputes

The law of New Zealand applies to disputes about this **Policy** and the New Zealand Courts have exclusive jurisdiction.

5.11 Proof of Loss

- (a) **You** will provide **Us** with full particulars of a proof of **Loss** as soon as reasonably possible in support of **Your** claim under this **Policy**. Unless otherwise agreed, a reasonable time frame will be deemed to be 12 months from the date of **Discovery**.
- (b) **You** may not offer, as a part of any proof of **Loss**, any computation or comparison which involves in any manner a profit and loss computation or comparison. **You** may offer a comparison between **Your** inventory records and actual physical counts of its inventory to prove the amount of **Loss** only where **You** establish that, wholly apart from such comparison, **You** have sustained a covered **Loss** caused by an **Employee**.

5.12 Recoveries

Any sums recovered following a payment or payments under this **Policy** will be distributed in the following order:

- (a) the costs incurred in the course of such recovery, whether to **You** or to **Us**;
- (b) to **You** in respect of any amount by which the amount of the **Loss** exceeded the **Limit of Indemnity**;
- (c) to **Us** to the extent of the **Loss** paid or payable; and
- (d) to the **Policyholder** for the amount of any applicable **Excess**.

5.13 Subrogation

We may at any time at **Our** own expense take such steps as **We** may deem necessary to obtain reimbursement from any person (or that person's estate) who committed a **Criminal Act** against **You** resulting in a **Loss** which **We** have paid or will become liable to pay under this **Policy** and for this purpose use **Your** name. **You** will as and when required provide **Us** all necessary information and assistance.

5.14 Valuation of Losses

- (a) 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 on which the **Loss** was **Discovered**.
- (b) 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 **You** in the conduct of **Your** 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 will have been furnished by **You** in order to reproduce such books and other records.
- (c) Electronic data
In the event that a **Loss** covered under this **Policy** results in the destruction, erasure or **Theft** of electronic data used by **You** while such data is stored within **Your** computer systems, **We** will be liable under this **Policy** if such data is actually reproduced however cover hereunder will only apply to the cost of labour for the actual transcription or copying of data by **You** in order to reproduce such electronic data.
- (d) Damage to premises
In the case of damage to premises, **We** will not be liable for more than the actual diminution in value of the **Property**.
- (e) Foreign currency

If a foreign currency (being a currency other than the currency in which this **Policy** is written) is involved in a **Loss** sustained by **You** under this **Policy**, then for the purpose of any calculation required in the settlement of a **Loss**, the rate of exchange will be the published rate in the NZ Herald on the date of such settlement.

(f) **Property**

In no event will **We** be liable in respect of **Property** (not included in the above), for more than the actual cash value thereof at the time of **Loss** or for more than the diminution in value of the **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 **You** 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 **You** 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.

5.15 **Waiver of privilege**

If **We** instruct any lawyer to investigate or defend any **Loss** against **You**, the **Policyholder** authorises the lawyer to provide **Us** with any documents, information or advice in respect of the **Loss**, including in relation to indemnity, and **You** waive any privilege to the extent necessary to give full effect to our entitlement in this respect.

5.16 **Words**

Certain words in this **Policy** have a specific meaning. These words appear in bold and **You** will find the meaning listed in Section 3 'Definitions' of this **Policy**. Words importing persons will include companies and other legal entities. The singular includes reference to the plural and vice versa, and reference to any gender includes all other genders.

Call us: 09 377 1432
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