



Members Professional Protection Insurance Policy Wording

Policy Document

Contents

Introduction to your Members Professional Protection Insurance Policy	Page 3
Telling us about a claim	Page 5
Making a claim	Page 5
Defence and settlement	Page 6
Notification of changes which may affect your insurance – keeping us updated	Page 6
Consumer Insurance (Disclosure and Representations) Act 2012 and The Insurance Act 2015	Page 7
How we will deal with claims to comply with the Consumer Insurance (Disclosure and Representations) Act 2012 and The Insurance Act 2015	Page 7
Fraudulent claims	Page 7
Important information about your insurance with us	Page 7
Data Protection	Page 7
Insurance administration	Page 8
Credit searches	Page 8
Sensitive data	Page 8
Information on products and services	Page 8
Industry agencies and databases	Page 9
Other insurers	Page 9
Fair Processing Notice	Page 9
Telephone recording and document management	Page 9
Our service commitment	Page 9
Customer feedback	Page 9
Definitions of terms used (when displayed in bold text in this policy wording)	Page 10
Insurance provided – cover options	Page 12
General terms and conditions	Page 13
Limits of liability and contribution	Page 13
Other insurance	Page 13
Territory	Page 14
Subrogation	Page 14
Authorisation	Page 14
Alteration & Assignment	Page 14
Contracting Parties and Rights of Action	Page 14
General exceptions	Page 15
Cancellation	Page 16
What to do if you have a complaint	Page 17
Financial Services Compensation Scheme	Page 18
Appendix A	Page 19

Members Professional Protection Insurance Policy

Introduction

This policy wording is evidence of a legally binding contract of insurance between **you** (the **insured**) and **us** (Evolution Insurance Company Limited). **We** rely upon:

- The information **you** provided or which has been provided on **your** behalf when **you** took out insurance with **us**;
- Any other information given by **you** or on **your** behalf in the formation and throughout the duration of the contract;
- This policy wording, the **schedule**, any endorsements applying to the cover;
- Any changes to **your** members professional protection policy contained in notices issued by **us** at renewal.

You must read this policy wording and **schedule** together. The **schedule** tells **you** which sections of the policy wording apply. Please check all the above documents carefully to make certain they give **you** the cover **you** want and keep them safe.

We agree to insure **you** under the terms, conditions and exceptions contained in this policy wording or in any clauses applying to this policy wording. The insurance provided by the policy wording covers loss or damage that may occur within the United Kingdom and the Republic of Ireland during any period of insurance for which **you** have paid, or agreed to pay the premium.

Our provision of insurance under this policy is conditional upon **you** observing and fulfilling the terms, provisions and conditions of this policy.

Nobody other than **you** (the **insured**) and **us** (Evolution Insurance Company Limited) has any rights that they can enforce under this contract of insurance and it cannot be assigned to any other party.

Unless specifically agreed otherwise, this insurance shall be subject to English Law.

The terms and conditions of this policy and all other information concerning this insurance are communicated to **you** in the English language and **we** undertake to communicate in this language for the duration of the policy.

For customers with disabilities, this policy and other associated documentation are also available in large print. Please contact the **administrator** if **you** require assistance.

Guidance notes

The guidance notes that are included throughout the policy wording are to help you understand this insurance. They do not form part of the contract of insurance between you and us. They should be read in conjunction with the full text of your policy wording.

Your insurance intermediary

Your insurance has been arranged and placed with **us** by an insurance intermediary authorised and regulated by the Financial Conduct Authority (FCA). Throughout this policy document they are referred to as **your** insurance intermediary or the firm that arranged **your** insurance with **us**. They have been appointed by SWIM Ltd.

The parties involved in your insurance

We have appointed SWIM Ltd. to administer **your** insurance on **our** behalf as the **administrator**.

SWIM Ltd. is registered in England company no. 4826045 with a registered office at Investment House, Tamar Street, Torpoint, PL11 2AW and is authorised and regulated by the Financial Conduct Authority (FRN231905).

Throughout this policy document they are referred to as the **administrator**.

The **administrator** can be contacted at:

SWIM Ltd.
Investment House
Tamar Street
Torpoint
PL11 2AW

Telephone: 0175 281 5766

Fax: 0175 281 5767

E-mail: admin@swimltd.co.uk

You should contact the firm that arranged **your** insurance with **us** if **you** have any questions about **your** insurance or if **you** need to make a change to **your** insurance (see “Notification of changes which may affect your insurance”).

The firm appointed as **your claims service provider** for is:

Psychologists Protection Society
The eCenter
Cooperage Way
Alloa
Clackmannanshire
FK10 3LP

Telephone: 0333 320 8074

Fax: 0333 320 8075

Email: enquiries@ppsweb.info or enquiries@ppstrust.org

You should contact them if **you** need to make a claim or to report an incident that may give rise to a claim under this insurance.

We and they will deal with **your** claim as quickly and fairly as possible. Please read the General terms and conditions and General exceptions in this policy wording.

If **you** are unhappy with the way **we** or the **claims service provider** has dealt with **your** claim and **you** wish to make a complaint, please refer to the “What to do if you have a complaint” section of the policy.

Your insurer

Your insurer is Evolution Insurance Company Limited. Evolution is a company registered in Gibraltar, Registered Number 88737 with a registered office at 5/5 Crutchett's Ramp, Gibraltar GX11 1AA.

Evolution Insurance Company Limited is licensed by the Financial Services Commission in Gibraltar under the Financial Services (Insurance Companies) Act to carry on insurance business in Gibraltar, and authorised and subject to limited regulation by the Financial Conduct Authority. Details about the extent of **our** authorisation and regulation by the Financial Conduct Authority are available from **us** on request.

We are also members of the Financial Ombudsman Service (FOS) and the Financial Services Compensation Scheme (FSCS).

Telling us about a claim

It is a condition applicable prior to **our** liability under this policy for a claim that **claims service provider** is given written notice as soon as practicable of such claim.

If this policy is not renewed, **we** shall not be liable for any claim of which it is not given written notice within 30 days of the end of the **policy period**.

If, during the **policy period**, any **insured** becomes aware of circumstances which could give rise to a claim, the company must, as a condition applicable prior to its liability for claims arising out of those circumstances, be given written notice of those circumstances as soon as practicable and within the **policy period**. Provided that this is done, any claim subsequently arising from those circumstances shall be deemed to have been made during the **policy period**. Circumstances shall not be regarded as notified unless the written notice expressly identifies the **wrongful act** and the date it was committed, the potential damage, the potential claimants and defendants and the manner in which the **insured** first became aware of the circumstances.

Each **insured** shall, as a condition to **our** liability under this policy for a claim, give **us**, the **administrator** or the **claims service provider** such information and co-operation as **we** may reasonably require, including but not limited to a description of the claim, the nature of the alleged **wrongful act** and the date it was committed, the nature of the alleged damage, the names of the claimants and defendants and the manner in which the **insured** first became aware of the claim.

Each **insured** shall, as a condition applicable prior to **our** liability under this policy for costs and expenses of replacing or restoring **documents**, give the **claims service provider** written notice as soon as practicable of the **documents' miscellaneous financial loss**, damage or destruction and give to the **claims service provider** information and co-operation as **we**, the **administrator** or the **claims service provider** may reasonably require.

Making a claim

You should contact the **claims service provider** if **you** need to make a claim or to report an incident that may give rise to a claim. Notice shall be given in writing addressed to:

Notice of claim or circumstances:
Claims Department

Other requests:
Executive Protection Department
Psychologists Protection Society
The eCentre
Cooperage Way
Alloa
FK10 3LP

Notice shall be effective on the date of receipt by the **claims service provider** at such address.

Defence and settlement

We shall have the right, but not the duty, to take over and conduct at any time the defence of claims, including to appoint lawyers or other representatives or advisers for that purpose.

With respect to any claim, **we** may at any time pay to the **insured** the amount of the limit of liability stated in Item 3(A) of the declarations which remains uneroded, the amount of any applicable sublimit which remains uneroded or the amount for which the claim can be settled whichever is the lowest. Such payment shall immediately discharge all liability from **us** in respect of the claim including liability for further **defence costs** and liability for further compensation under Insuring Clause 4.

Each **insured** agrees not to settle or offer to settle any claim, incur any **defence costs** or **formal investigation expenses** or otherwise assume any contractual obligation or admit any liability with respect to any claim without **our** prior written consent which shall not be unreasonably withheld. **We** shall not be liable for any settlement, **defence costs**, **formal investigation expenses**, assumed obligation or admission to which it has not consented in writing.

If **we** and an **insured** disagree on whether a claim against that **insured** should be defended then:

- a. If the claim is brought in England or Wales, they shall refer the question to a Queen's Counsel, or barrister of at least ten years' call, of the Bar of England and Wales to be mutually agreed between them (or, if they cannot agree on the Queen's Counsel or barrister, to be appointed by the Chairman for the time being of the Bar Council); or
- b. If the claim is brought in another jurisdiction, they shall refer the question to a lawyer qualified in the law of that jurisdiction of equivalent standing to a Queen's Counsel or barrister of ten years' call (or, if they cannot agree on the lawyer, to be appointed by such procedure in that jurisdiction as is similar to appointment by the Chairman of the Bar Council), and such Queen's Counsel's, barrister's or lawyer's decision that the claim should be defended or that it should be settled shall be implemented by **us** and that **insured**. The fees charged by the Queen's Counsel, barrister or lawyer shall be deemed to be **defence costs**. The Queen's Counsel, barrister or other lawyer shall act as expert not arbitrator.

Each **insured** undertakes not to prejudice **our** interests or its potential or actual rights of recovery and to give to **us** such information and co-operation as **we** may require.

Notification of changes which may affect your insurance – keeping us updated

You should keep a complete record of all information **you**, or anyone else on **your** behalf, supplied to the firm that arranged **your** insurance with **us** and to **us** when taking out this insurance.

So that **you** understand what **you** are covered for, please read this policy wording and the **schedule** of insurance (which may make reference to endorsements) very carefully. **You** should pay special attention to the General terms and conditions and General exceptions of this policy wording.

If **you** have any questions, or the cover does not meet **your** needs or any of the details are incorrect **you** should notify **us** immediately via the firm that arranged **your** insurance with **us** or the **administrator**.

If you fail to tell us or you delay telling us about an incident that may lead to a claim and this increases our claim costs, you will become liable to pay the additional costs. It may also invalidate your right to claim.

Consumer Insurance (Disclosure and Representations) Act 2012 and The Insurance Act 2015

You are required by the provisions of the above Acts to take care to supply accurate and complete answers to all the questions **you** were asked at the time of insuring with **us**. It is important that **you** check **your** records for the information **you** have provided and notify **us** immediately of any changes or inaccuracies in these details. Failure to provide accurate and complete information to the best of **your** knowledge may result in increased premiums, refusal of a claim or **your** policy being cancelled, and may affect **your** ability to gain insurance from other insurers.

You are also required to update **us** with any changes to the information **you** provided at the time **you** asked **us** to insure **you**. When **you** tell **us** about these changes **we** may adjust the premium. If **you** do not tell **us** about these changes or inaccuracies, this may result in refusal of a claim or **your** policy being cancelled, and may affect **your** ability to gain insurance from other insurers.

This is not a full list and if **you** are in any doubt **you** should advise **your** insurance intermediary for **your** own protection. If **you** do not tell **us** about changes, **your** insurance may not cover **you** fully or at all.

When **you** inform **us** of a change **we** will tell **you** if this affects **your** policy, for example whether **we** are able to accept the change and if so, whether the change will result in revised terms and/or premium being applied to **your** policy.

How we will deal with claims to comply with the Consumer Insurance (Disclosure and Representations) Act 2012 and The Insurance Act 2015

Claims where **you** have not disclosed or **you** have misrepresented but **we** deem this was not deliberate or reckless:

- Where a higher premium would have been charged **we** will reduce the amount of the claim settlement proportionate to the premium **we** would have actually charged had the circumstances been disclosed;
- Where additional terms would have been imposed by **us** (other than terms relating to premium), **we** will consider the insurance contract on the basis that those different terms had applied from the date of the breach of duty;
- Where **we** would not have entered into the insurance contract at all **we** can treat the insurance as void and cancel **your**;
- Policy as if it never existed from inception and refuse to pay all claims.
- **We** will return the premium **you** have paid to **us** unless there is another reason why **we** should retain it. See "Cancellation" section of **your** policy.

Claims where **we** deem the misrepresentation or non-disclosure to be deliberate or reckless:

- **We** will have the option to treat the insurance as void (**we** can cancel **your** policy from inception and treat the insurance as though it had never existed).
- **We** can retain the full premium even if **you** have not paid **us** the premium in full **we** shall be entitled to collect it from **you**.

Fraudulent claims

We will not pay claims where **you** have committed fraud in relation to a claim on this policy. **We** may also cancel the policy and any other policies **you** have with **us**, from the date the fraud occurred.

We may also choose not to refund the premium on the basis of fraud, this will depend on the specific circumstances of the claim.

It is important that you check your records for the information you have provided and notify us immediately of any changes to these details. Failure to provide accurate and complete information to the best of your knowledge may result in increased premiums, refusal of a claim or your policy being cancelled.

Important information about your insurance with us

Data Protection

We are governed by the Data Protection legislation applicable in both the United Kingdom and Gibraltar. Under this legislation **we** are required to tell **you** about how **we** will use the information that **you** give **us**, who **we** may share information with and the systems **we** have in place that allow **us** to detect and prevent fraudulent applications for insurance and claims.

Insurance administration

The information that **you** give to **us** will be used by **us**, the firm that arranged **your** insurance with **us**, and the **administrator** and anybody appointed by **us** or them for the purposes of administering **your** insurance or a claim, including any authorised representative or **claims service provider**. It may be disclosed to reinsurers and to regulatory authorities for the purposes of monitoring **our** or the **administrator's** compliance with regulatory requirements.

Where this happens **we** will ensure that anyone to whom **we** send **your** information agrees to treat it with the same level of protection as if **we** were dealing with it.

In giving the firm that arranged **your** insurance with **us**, **us** and the **administrator** information about another **person**, **you** confirm that the other **person** has given **you** permission to give the information to **us**, the firm that arranged **your** insurance with **us**, and the **administrator** and that **we/they** may process it (including any sensitive data – see below) for the purposes as set out in these notices.

The firm that arranged **your** insurance with **us**, **we** and the **administrator** may undertake checks against publicly available information (such as electoral roll, county court judgments, bankruptcy orders or repossessions). These checks may be made when **you** take out insurance with **us** or if **you** make a claim and the information shared with anyone acting on **our** behalf to administer **your** insurance or a claim (e.g. any authorised representative or **claims service provider**).

Credit searches

To help **us** to prevent fraud and to check **your** identity, **we** and the **administrator** may search files made available to **us** by credit reference agencies, who may keep a record of that search.

Sensitive data

In order to assess the terms of **your** insurance or to administer claims **we** may need to collect data that Data Protection legislation defines as sensitive (such as criminal convictions). In taking out insurance with **us**, **you** are giving **us**, **your** consent to such information being processed by **us**, the **administrator**, companies belonging to **our** group and other companies contracted by **us** to provide services relating to **your** insurance or to a claim.

On payment of a £10 fee, and provided **you** are an individual capable of making a subject access request, **you** are entitled to receive a copy of the information **we** hold about **you**. If **you** have any questions, or **you** would like to find out more about this **you** can write to the Data Protection Officer at Elite Insurance Company Limited. **Our** UK address is shown below.

Evolution Insurance Company Limited
53A High St
Saffron
Walden
CB10 1AA

Information on products and services

We may use the details **you** have provided to send **you** information about **our** other products and services or to carry out research. **We** may contact **you** by letter, telephone or e-mail. Please be reassured that **we** will not make **your** personal details available to any companies other than those that are contracted by **us** to provide services relating to **your** insurance with **us**. If **you** would prefer not to receive information from **us** or those companies who provide services on **our** behalf, simply write to the **administrator**.

Fraud prevention, detection and claims history

Under the conditions of **your** policy **you** must tell **us** about any insurance related incidents (such as loss, damage, theft) whether or not they give rise to a claim. When **you** tell **us** about an incident **we** may pass information relating to it to industry databases.

We may search these databases when **you** apply for insurance, in the event of any incident or claim, or at time of renewal to validate **your** claims history or that of any other **person** or property likely to be involved in the policy or claim.

In order to prevent and detect fraud **we** may at any time:

- Share information about **you** with other organisations and public bodies including the police;
- Check and/or file **your** details with fraud prevention agencies and databases, and if **you** give **us** false or inaccurate information and **we** suspect fraud, **we** will record this. **We** and other organisations may also search these agencies and databases to:
 - help make decisions about the provision and administration of insurance, credit and related services for **you** and members of **your** household;
 - trace debtors or beneficiaries, recover debt, prevent fraud and to manage **your** accounts or insurance policies;
 - check **your** identity to prevent money laundering, unless **you** furnish **us** with other satisfactory proof of identity;
- Undertake credit searches and additional fraud searches.

Industry agencies and databases

We pass information to the Claims and Underwriting Exchange Register (CUE), run by the Motor Insurance Bureau (MIB). The aim is to help **us** to check information provided by **you** and also to prevent fraudulent claims. These registers may be searched in considering any application for insurance in connection with this policy. **We** will pass any information relating to any incident which may or may not give rise to a claim under this policy and which **you** have to notify **us** of in accordance with the terms and conditions of this policy, to the relevant registers.

Other insurers

We may pass information about **you** and this policy to other insurance companies with which **we** either reinsure **our** business or who are dealing with a claim made under this policy. In addition, information may be passed to other insurance related organisations in common with industry practice. These companies will usually be located in countries inside the European Economic Area (EEA). Where information is passed to companies outside of the EEA, **we** will make sure they comply with the same standards of data security as though they were located inside the EEA.

Fair Processing Notice

If false or inaccurate information is provided and fraud is identified, details will be passed to fraud prevention agencies.

- Law enforcement agencies may access and use this information.
- **We** and other organisations may also access and use this information to prevent fraud and money laundering, for example, when:
 - Checking details on applications for credit and credit related or other facilities;
 - Managing credit and credit related accounts or facilities;
 - Recovering debt;
 - Checking details on proposals and claims for all types of insurance;
 - Checking details of job applicants and **employees**.

Please contact **us** if **you** want to receive details of the relevant fraud prevention agencies.

We and other organisations may access and use from other countries the information recorded by fraud prevention agencies.

Telephone recording and document management

For **our** joint protection telephone calls may be recorded and monitored by the firm that arranged **your** insurance with **us**, the **administrator** and by **us**.

We, the **administrator** or any other service providers appointed by **us** may hold **documents** relating to this insurance and any claims made under it in electronic form and may destroy the originals. An electronic copy of any such document will be admissible in evidence to the same extent as, and carry the same weight as the original.

Our service commitment

Customer feedback

If **you** have any suggestions or comments about how the firm that arranged **your** insurance with **us, we** or the **administrator** can improve **our** cover or the service **we/they** have provided please write to the **administrator**.

The **administrator** and **we** welcome feedback to enable them or **us** to improve products and services.

In the event that we are unable to continue to trade with the **administrator** because they have ceased to trade through bankruptcy or liquidation, or in the event that their relevant FCA authorisation is revoked, we reserve the right to pass your policy and all details on to another intermediary. If you do not wish this to happen then please put your request in writing to us.

Definitions of terms used (when displayed in bold text in this policy wording)

Wherever the following words or phrases appear in bold text in this policy, they will have the following meanings:

Administrator

The firm appointed by **us** to administer this insurance on **our** behalf.

Business activity

The provision of advice or services, as part of the activities of an **insured**, stated in Item 2 of the declarations.

With respect to Insuring Clause 1 only:

- A written demand, whether or not containing a demand for monetary compensation; or
- A civil proceeding; arising from business activity and first made during the **policy period** by a **third party** against an **insured**.

With respect to Insuring Clause 2 only, a **formal investigation**.

Claims service provider

The firm appointed on **our** behalf to handle and settle claims made under **your** insurance. **You** must notify claims to them and contact them with any questions relating to **your** claim.

Defence costs

The part of **miscellaneous financial loss** consisting of reasonable and necessary costs, expenses, charges and fees (including but not limited to lawyers' and experts' fees and disbursements) incurred in defending or investigating a claim (other than internal expenses of an **insured**).

Documents

Documents (other than bearer bonds, coupons, shares, bank notes, currency notes, stamps and other negotiable instruments) whether in physical or electronic format for which an **insured** is, in connection with **business activity**, legally responsible to a **third party**.

Employee

A natural **person** under a contract of service with an **insured**.

Formal investigation

A formal investigative inquiry brought and maintained entirely outside the **U.S.A.** into an **insured's** conduct of **business activity** and first instituted during the **policy period** by a regulatory or professional body with powers to investigate that **insured**.

Formal investigation expenses

The part of **miscellaneous financial Loss** which consists of reasonable and necessary legal fees and related professional charges which an **insured** incurs in that **insured's** representation at a **formal investigation** at which that **insured's** attendance is required by the body which instituted the **formal investigation**, but which are only incurred after that **insured** has been notified in writing by that body that it is looking into whether or not that **insured** is culpable of misconduct.

Insured, insured person

A natural **person** who has been, now is, or shall become a principal, partner, director or **employee** of an **insured**, provided that such **person** shall only be covered under this policy in respect of **wrongful acts** committed while that **person** is such principal, partner, director or **employee**. Solely for such **wrongful acts** of such **person**, **insured person** includes such **person's**:

- Lawful spouse, if named as co-defendant solely because of their spousal relationship; or
- Estate, heirs, legal representatives or assigns if such **person** is deceased or declared incompetent, insolvent or bankrupt.

Miscellaneous financial loss

The amount which an **insured** is legally and personally liable to pay on account of a claim to the **regulatory or professional body**, to which the **insured** has disclosed to the **Insurer** as being a member, including:

- a. **Defence costs**;
- b. **Formal investigation** expenses; and
- c. Awards of damages, judgements, awards of claimant's costs and sums payable pursuant to settlements made against the **Insured** by the **regulatory or professional body**

Offshore

From the time of embarkation by an **employee** onto a conveyance at the point of final departure to an offshore rig or offshore platform until disembarkation by that **employee** from a conveyance onto land upon return from an offshore rig or offshore platform.

Person(s)

Legal or natural person(s) or partnership unless otherwise specified.

Personal injury

Bodily injury, mental illness, emotional distress, sickness, disease or death.

Property damage

Physical damage to or destruction or loss of use of any tangible property.

Policyholder

The sole practitioner stated in Item 1 of the declarations.

Policy period

The period of time stated in Item 6 of the declarations but subject to prior termination when cover terminates in accordance with Section 19 below.

Pollutants

Any substance exhibiting any characteristic hazardous to the environment or having an adverse impact on the environment, including but not limited to solids, liquids, gaseous or thermal irritants, contaminants or smoke, vapour, soot, fumes, acids, alkalis, soil, chemicals and waste materials, air emissions, odour, waste water, oil, oil products, infectious or medical waste, asbestos, asbestos products and any noise.

Pollution

- Any actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, escape, treatment, removal or disposal of, any **pollutants**;
- Any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralise any **pollutants**, or any action taken in contemplation or anticipation of any such regulation, order, direction or request; or
- Any actual or alleged breach of duty in any way connected to any **pollutants**.

Regulatory or Professional Body

Being Regulatory or Professional bodies within the Talking and Listening therapies with which the insured is a member.

Schedule

The document which gives details of the cover and sum insured limits **you** have.

Subsidiary

A company which an **insured** either directly or indirectly controls through:

- Holding a majority of the voting rights;
- The right to appoint or remove a majority of its board of directors; or
- Controlling alone, pursuant to a written agreement with other shareholders, a majority of the voting rights therein.

Third party

Any **person** other than an **insured**.

We, us, our

Evolution Insurance Company Limited.

Wrongful act

Any actual or alleged matter described in Insuring Clause 1 or Insuring Clause 3 above which is an actual or alleged: failure to perform; negligent act, error or omission; libel, slander or any other form of defamation; dishonesty of an **employee**; or miscellaneous financial loss, damage or destruction of **documents**. It does not include acts of a physical nature towards **Persons**

You, your

The **person(s)** named on **your schedule**, their domestic partner and members of their family (or families) who are normally living with them.

Insurance provided – cover options

Insuring Clause 1: Liability

We shall pay, on behalf of each **insured**, any **miscellaneous financial loss** on account of a claim alleging:

- a. A failure to perform, or negligent act, error or omission in the performance of, treatment or services which are, or if performed would be, within the **business activity**, by:
 - i. That **insured**;
 - ii. Any **person**, partnership, firm or **administrator** acting on behalf of an **insured**; or
 - iii. Any predecessor in business of an **insured**.
- b. Libel, slander or any other form of defamation by that **insured**;
- c. Subject to specific acceptance by the insurer claims arising out of research undertaken by that **insured** other than as a result of publication;
- d. Breach of confidentiality;
- e. Dishonesty of an **employee**; or
- f. Miscellaneous financial loss, damage or destruction of **documents** including case notes.

Insuring Clause 2: Formal investigation expenses

We shall pay, on behalf of each **insured**, **formal investigation expenses**.

Insuring Clause 3: Document replacement costs

We shall pay, on behalf of each **insured**, the reasonable costs and expenses of replacing or restoring **documents** whose miscellaneous financial loss, damage or destruction is first discovered by that **insured** during the **policy period**, up to a maximum liability for the **policy period** of £100,000.

Insuring Clause 4: Compensation for court attendance and staff disruption

With regard to each claim, other than a **formal investigation, miscellaneous financial loss** on account of which is covered by this policy:

- a. **We** shall, if a principal, partner, director or **employee** of an **insured** attends a court or arbitration hearing as a witness, compensate for that **person** being so occupied, by paying £250 for each day on which that **person** attends as a witness;
- b. **We** shall, if a principal, partner, director or **employee** of an **insured** is interviewed by the lawyers conducting the defence of the claim for the purpose of composing a witness statement, compensate for that **person** being so occupied, by paying £50 per hour in respect of the time certified by the lawyers as time being interviewed;
- c. **We** shall, if a principal, partner, director or **employee** of an **insured** is reasonably needed to attend a conference or consultation with counsel (as that expression is used by the Bar of England And Wales), compensate for that **person** being so occupied, by paying £50 per hour in respect of the time certified by the lawyers conducting the defence of the claim as time spent in such conference or consultation;
- d. **We** shall, if a principal, partner, director or **employee** of an **insured** attends a court or arbitration hearing as observer, compensate for that **person** being so occupied, by paying £50 for each day on which that **person** attends as observer, provided that **we** shall only be liable to compensate for the occupation of one observer for all **insured** together per day.

Compensation payable by **us** pursuant to this section shall be paid to the **insured** against which the claim is made, or, if there is more than one such **insured**, to whichever of such **insured** **we** choose. If the claim is not made against an **insured**, **we** shall pay the compensation to an **insured** of **our** choice.

Compensation provided for by this section in respect of a **person's** attendance shall only be payable where that attendance is in connection with defending, not prosecuting, a claim.

General terms and conditions

Guidance notes

So far you have seen conditions which are specific to each section of cover. The terms and conditions set out below apply to the whole of this insurance. They explain your responsibilities under this contract of insurance.

THESE GENERAL TERMS AND CONDITIONS APPLY TO THE WHOLE OF THE INSURANCE

These terms and conditions apply to all sections of the policy. If **you** do not perform or comply with a term or condition, **we** might not be under any obligation to pay anything under the terms of this policy.

1. Limits of liability and contribution

For Insuring clause 1

- a. **Our** maximum liability for **miscellaneous financial loss** other than **defence costs**, whether the claim is against one or any number of **insureds**, shall not exceed the limit of liability stated in Item 3(A) of the declarations; and
- b. **Our** liability for **defence costs** shall be in addition to the limit of liability stated in Item 3(A) of the declarations, but **we** shall only be liable for **defence costs** in proportion to the amount which the limit of liability in Item 3(A) of the declarations bears to the total amount of miscellaneous financial loss, other than **defence costs**, on account of that claim.

For Insuring clause 2 **Our** liability for **formal investigation expenses** shall be in addition to the limit of liability stated in Item 3(A) of the declarations. However, **our** maximum aggregate liability for all **formal investigation expenses** on account of all **formal investigations**, whether into the conduct of one or any number of **insureds**, shall not exceed the limit for **formal investigation expenses** stated in Item 3(B) of the declarations.

For Insuring clause 3 **Our** liability for costs and expenses of replacing or restoring **documents** shall be in addition to the limit of liability stated in Item 3(A) of the declarations. However, **our** maximum aggregate liability for all such costs and expenses on account of all occasions of miscellaneous financial loss, damage or destruction of **documents**, whether lost, damaged or destroyed by one or any number of **insureds**, shall not exceed the limit for document replacement stated in Item 3(C) of the declarations.

For Insuring Clause 4 **Our** liability for compensation provided for by Insuring Clause 4 shall be in addition to the limit of liability stated in Item 3(A) of the declarations. However, **our** maximum aggregate liability for all such compensation on account of all claims, whether against one or any number of **insureds**, shall not exceed the court attendance and staff disruption limit stated in Item 3(D) of the declarations.

All claims, whether against one or any number of **insureds**, arising out of the same **wrongful act** and/or arising out of causally connected **wrongful acts** shall be deemed to be a single claim first made when the first of such claims is first made. For the purposes of this paragraph, demands, proceedings and investigative inquiries not first made or instituted during the **policy period** but which would otherwise be claims shall be deemed to be claims.

With regard to each and every claim which is not a **formal investigation**, **we** shall only be liable for that part of **miscellaneous financial loss** which is in excess of the applicable contribution stated in Item 4 of the declarations.

Any **defence costs** within the contribution which would otherwise be covered and which are funded by an **insured** on account of a claim shall be reimbursed by **us**, if a final adjudication exonerates all **insureds** in such claim from liability.

Amounts stated for limits and sublimits are **our** maximum liabilities for all **insureds** together, not maximum liabilities per **insured**.

2. Other insurance

If **miscellaneous financial loss** (or miscellaneous financial loss, damage or destruction of **documents**) is **insured** under any other valid policy, then this policy shall cover such **miscellaneous financial loss** (or miscellaneous financial loss, damage or destruction of **documents**) subject to its terms, only to the extent that the amount of such **miscellaneous financial loss** (or of the costs and expenses of replacing or restoring the **documents**) is in excess of the amount of payment from such other insurance whether such other insurance is stated to be primary, contributory, excess, contingent or otherwise, unless such other insurance is written only as specific excess insurance over the limit of liability provided in this policy (or, in the case of **documents**, written only as specific excess insurance over **our** maximum liability for the **policy period** for costs and expenses of replacing or restoring **documents**).

3. Territory

Unless otherwise provided in any section, coverage under this policy shall extend to claims made in the United Kingdom and Republic of Ireland.

Valuation and foreign currency

Miscellaneous financial loss which is not in the currency stated in Item 3(A) of the declarations of this policy or any endorsements thereto shall be converted to and paid in the currency of this policy or any endorsements thereto based upon the rate of exchange published in The Financial Times on the date the final judgement is reached, the amount of the settlement is agreed upon or **defence costs** or any other element of **miscellaneous financial loss** is due, respectively.

4. Subrogation

We shall be subrogated to the extent of any payment under this policy to each **insured's** rights of recovery, and each **insured** shall execute all papers required and shall do everything necessary to secure and preserve such rights and to enable **us** to bring proceedings in the name of that **insured**.

We shall not exercise an **insured's** rights of recovery against an **employee** unless a dishonest, fraudulent or malicious act or omission by the **employee** or an intentional breach of law by the **employee** is a cause of the claim in respect of which **we** seek to exercise those rights of recovery or is a cause of **miscellaneous financial loss** on account of that claim.

5. Authorisation

The **policyholder** hereby agrees to act on behalf of all **insureds** with respect to the giving and receiving of notice of claims or termination, the payment of premiums and the receiving of any return premiums that may become due under this policy, the negotiation, agreement to and acceptance of endorsements, and the giving or receiving of any notice provided for in this policy, and the **insureds** agree that the **policyholder** shall so act on their behalf.

6. Alteration & Assignment

No change in, modification of, or assignment of interest under this policy shall be effective except when made by written endorsement to this policy duly executed on behalf of **us**.

7. Contracting Parties and Rights of Action

No **person** shall have any rights under or in connection with this policy by virtue of the Contracts (Rights of Third Parties) Act 1999 or any amendment or re-enactment thereof. The **policyholder** may not assign to any other **person** any right or cause of action against **us** under or in connection with this policy.

General exceptions

Guidance notes

So far you have seen exclusions which are specific to each section or items of cover. The General exceptions set out below apply to the whole of this insurance. They explain what is excluded under this contract of insurance.

THESE GENERAL EXCLUSIONS APPLY TO THE WHOLE OF THE INSURANCE

These exclusions apply to all sections of the policy. This policy does not cover:

1. **We** shall not be liable for **miscellaneous financial loss**, costs or expenses on account of any claim or on account of any **miscellaneous financial loss**, damage or destruction of **documents**:
 - a. Based upon, arising from or in consequence of any circumstance which, as at the start of the **policy period**; could give rise to a claim and which an **insured** knew of, or ought to have known of, at that time;
 - b. Based upon, arising from, or in consequence of any **wrongful act** prior to the date stated in Item 7 of the declarations;
 - c. To the extent that that **miscellaneous financial loss** consists of fines or penalties or the multiple portion of any multiplied damages award;
 - d. To the extent that that **miscellaneous financial loss** consists of punitive, exemplary or aggravated damages other than damages awarded for libel, slander or defamation;
 - e. Based upon, arising from or in consequence of a **wrongful act** of an **insured** listed in Item 5 of the declarations, or of an **insured person**, prior to the date stated against that **insured** in Item 5 of the declarations;
 - f. Based upon, arising from or in consequence of any actual or alleged **personal injury** of an **insured person**;
 - g. For **personal injury** which does not arise from breach of duty through a negligent act, error or omission by an **insured** in the course of **business activity**;
 - h. For **property damage** which does not arise from breach of duty through a negligent act, error or omission by an **insured** in the course of **business activity**;
 - i. Based upon, arising from or in consequence of **pollution**;
 - j. Based upon, arising from or in consequence of:
 - i. Ionising radiations or contamination by radioactivity from any nuclear fuel or from any nuclear waste from the combustion of nuclear fuel; or
 - ii. The radioactive, toxic, explosive or other hazardous properties of any explosive nuclear assembly or nuclear component thereof.
 - k. Based upon, arising from or in consequence of the ownership, occupation, possession or use by or on behalf of an **insured** of any land, buildings, aircraft, watercraft, vessel or mechanically-propelled vehicle;
 - l. Based upon, arising from or in consequence of the sale, supply, distribution, manufacture, construction, installation, alteration, maintenance or repair, servicing or treatment of any goods or products by an **insured**;
 - m. Where the **miscellaneous financial loss** is an **insured person's** and the claim is based upon, arises from or is in consequence of any dishonest or fraudulent act or omission or any intentional breach of law committed or condoned by that **insured person**;
 - n. Based upon, arising from or in consequence of any dishonest or fraudulent act or omission or any intentional breach of law by any principal, partner or director of an **insured**;
 - o. For breach of, or alleging liability under, any express warranty, guarantee or contractual term except for such amount of **miscellaneous financial loss** as the **insured** would be legally and personally liable to pay in the absence of such warranty, guarantee or term;
 - p. Based upon, arising from or in consequence of any **insured** acting as a director or officer of any organisation;
 - q. By or on behalf of a parent, **subsidiary**, affiliate or associate of an **insured** except a claim for contribution or indemnity which results solely from a claim against such parent, **subsidiary**, affiliate or associate by a **third party**;
 - r. To the extent that **miscellaneous financial loss** consists of sums relating to any trading **miscellaneous financial losses** or trading liabilities incurred in connection with any business managed or carried on by an **insured** on behalf of a client;
 - s. Based upon, arising from or in consequence of the insolvency of any **insured**;
 - t. Based upon, arising from or in consequence of any libel, slander or other form of defamation which any **insured** commits intentionally or recklessly.

Cancellation

Guidance notes

You or we may cancel this insurance at any time. We set out below the circumstances under which we may cancel your insurance and the amount of premium you may be refunded. There are some circumstances where no premium refund will be given e.g. you do not tell us the truth or we reasonably suspect fraud.

To effect cancellation of **your** policy, **you** should contact the firm that arranged **your** insurance with **us**.

Cancellation by you during the cooling-off period

This insurance provides **you** with a cooling-off period to decide whether **you** wish to continue with this insurance. The cooling-off period is for 14 days from the date **you** receive **your** policy documentation.

If a period of less than 14 days has elapsed since **you** received **your** policy documentation, and **you** have not made a claim, **you** have the right to cancel the policy and receive a refund of the premium **you** have paid:

- If at the date of cancellation **your** policy has not yet commenced **you** will receive a full refund of the premium **you** have paid from **us**; or
- If **your** policy has already commenced, **you** will receive a refund of premium from **us**, equivalent to the unexpired period of cover on a pro rata basis.

Cancellation by you – after the cooling-off period

You may cancel this policy by contacting the firm that arranged **your** insurance with **us**.

If **you** have paid the full annual premium, and there have been no claims or incidents likely to result in a claim in the current **period of insurance**, **you** will receive a refund of premium from **us** equivalent to the unexpired period of cover on a pro rata basis.

Where **you** have made a claim and wish to cancel **your** policy **you** will not be entitled to a refund of premium.

If **you** are paying the annual premium by monthly instalments, no further premiums will be collected from **you** once the firm that arranged **your** insurance with **us** received notice of cancellation from **you**, provided there have been no claims or incidents likely to result in a claim in the current **period of insurance**.

If **you** are cancelling the policy and there has been a claim or incident likely to result in a claim in the current **period of insurance** the full annual premium must be paid by **you**.

Cancellations will not be backdated.

Cancellation by us – during and after the cooling off period

We, or the **administrator** can cancel this policy where there is a valid reason for doing so by giving **you** 7 days' notice in writing setting out the reason for cancellation. This will be sent to the last address **you** notified to **us**.

Valid reasons include but are not limited to the following:

Cancellation by us – non-payment of premium

We, the **administrator** or the firm that arranged **your** insurance with **us** can cancel this policy by giving **you** 7 days' notice in writing to the last address **you** notified to **us**. If **we** receive payment by the date set out in the letter **we** will take no further action.

Notwithstanding the provisions of General terms and condition 2.c., if the **insurer** agrees to accept the premium under this policy by instalments then, in the event of any default in payment of any instalment by the **insured**, the full outstanding balance of premium shall become payable immediately. If the **insured** then fails to pay such amount within seven days of the **insurer's** notice to the **insured** of the default in payment, the **insurer** may cancel this policy by seven days' notice in writing to the **insured**.

Cancellation by us – where we reasonably suspect fraud

The Consumer Insurance (Disclosure and Representations) Act 2012 and The Insurance Act 2015 requires **you** to take reasonable care to provide complete and accurate answers to the questions **we** ask and sets out situations where failure by a **policyholder** to provide complete and accurate information requested by an **insurer** allows the **insurer** to cancel the policy, sometimes back to its start date and to keep any premiums paid. There will be no refund of premium if **our** cancellation is the result of **your** dishonesty or where **we** reasonably suspect fraud by **you**.

Where **our** investigation provides evidence of fraud or a serious non-disclosure **we** may cancel the policy immediately and backdate the cancellation to the date of the fraud or when **you** provided **us** with incomplete or inaccurate information, which may result in **your** policy being cancelled from the date **you** originally took it out. **We** may also seek reimbursement of any claims monies paid by **us** since the fraud was committed.

Cancellation by us – for your non-compliance with policy terms and conditions

We, the **administrator** or the firm that arranged **your** insurance with **us** can cancel this policy by giving **you** 7 days' notice in writing to the last address **you** notified to **us**. There will be no refund of premium if **our** cancellation is the result of **your** failure to comply with the policy terms and conditions e.g. **you** fail to co-operate with **us** or provide **us** with information or documentation **we**, the **administrator** or **claims service provider** reasonably require, and this affects **our** ability to process a claim or defend **our** interests.

Cancellation by us – other reasons

Where cancellation is effected by **us**, the **administrator** or the firm that arranged **your** insurance with **us** any refund of premium will be calculated on a pro rata basis taking into account the original **policy period** and the number of days remaining to the expiry date of the policy. Provided there have been no claims or incidents likely to result in a claim in the current **period of insurance**, **we** will refund the premium relating to any unused portion of cover within the current **period of insurance** on a pro-rata basis.

Guidance notes

Please note that any refund from us whether during or after the cooling off period may be subject to a further cancellation charge levied by the firm that arranged your insurance with us and/or the administrator. Any charges levied by them will be in accordance with the terms and conditions agreed between you and them at the time you arranged this insurance.

What to do if you have a complaint

We, the firm that arranged **your** insurance with **us**, and the **administrator** aim to provide **you** with a prompt and efficient service at all times but on occasions this may not be possible and **we**/they may fall short of **your** expectations. If **we** or they have not provided **you** with a prompt and efficient service and **you** wish to complain, please contact the **administrator**.

If **your** complaint is in relation to the way in which **your** insurance was sold, the firm that arranged **your** insurance with **us** and the **administrator** will deal with **your** complaint.

If **your** complaint is about **our** service, the policy terms and conditions, or a claim, the **administrator** may refer **your** complaint to **us**.

We or the **administrator** will investigate **your** complaint and issue a final response letter.

If **you** are unhappy with the final response and **you** are an eligible complainant (an individual consumer or a micro-enterprise or a charity or trustee of a trust under a certain size) **you** may wish to contact the Financial Ombudsman Service. They offer a free and independent service for resolving disputes about most financial matters and **you** have six months from the date of the final response letter to contact them. Please note that the Financial Ombudsman Service will not adjudicate **your** complaint until **you** have received a final response letter or eight weeks has passed since **you** notified **your** complaint.

Their contact details are:

Financial Ombudsman Service
Exchange Tower
London
E14 9SR

Telephone: 0800 023 4567 or 0300 123 9 123
Email: complaint.info@financial-ombudsman.org.uk
Website: www.financial-ombudsman.org.uk

The Financial Ombudsman Service decision is binding on **us** but not **you**. The complaints procedure set out above does not affect **your** right to take legal action against **us**, the firm that arranged **your** insurance with **us**, or the **administrator**.

Financial Services Compensation Scheme

Elite Insurance Company Limited is a member of the Financial Services Compensation Scheme (FSCS). **You** may be entitled to compensation from this scheme if **we** cannot meet **our** liabilities under this policy.

Further information about the scheme is available on the FSCS website at www.fscs.org.uk or by writing to: Financial Services Compensation Scheme
10th Floor
Beaufort House
15 St Botolph Street
London
EC3A 7QU

Appendix A

1. **BFSC/Concessionaires conditions.**

The **insured** hereby warrants that it shall:

- a. As a specific condition of its engagement of any sub-contractor require such sub-contractor to effect and maintain throughout the period of such engagement, adequate and suitable insurance in respect of legal liabilities arising in connection with the contracted work;
- b. Satisfy itself that the insurance required by (a.). Hereof is so effected and maintained.

2. **Excluding injury to feelings.**

Liability arising from any acts resulting in the embarrassment to any individual or group following an accidental or deliberate act by a member of staff or member of the public is excluded.

Evolution Insurance Company Limited. Evolution is a company registered in Gibraltar, Registered Number 88737 with a registered office at 5/5 Crutchett's Ramp,
Gibraltar GX11 1AA.

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