



# FINANCIAL INSOLVENCY INSURANCE

## Policy Wording

This Policy is issued by Evolution Insurance Company Limited which is registered in Gibraltar No. 88737 with a registered office at 5/5 Crutchett's Ramp, Gibraltar, GX11 1AA.

Evolution Insurance Company Limited is authorised and regulated by the Financial Services Commission in Gibraltar and authorised and subject to limited regulation by the Financial Conduct Authority (FCA) in the UK. Details about the extent of our authorisation and regulation by the FCA are available from us on request.

### IMPORTANT INFORMATION

This document and the **Certificate of Insurance** together set out the cover provided, the amount insured and the terms and conditions of the insurance cover. Please read both carefully and keep it in a safe place.

### CANCELLATION

If the **Policyholder** decides within 14 days of receipt that this does not meet its requirements the **Policyholder** may cancel it and provided there have been no claims made, the **Insurer** will refund the premium.

### NON-DISCLOSURE

If the **Policyholder** fails to comply with its duty of disclosure, the **Insurer** may be entitled to reduce its liability under the **Policy** in respect of a claim or may cancel the contract. If the **Policyholder's** non-disclosure is deliberate or fraudulent, the **Insurer** may also have the option of avoiding the contract from its beginning.

### FALSE OR FRAUDULENT CLAIMS

If the **Policyholder** makes a false or a fraudulent claim, the **Insurer** is not liable to pay the claim, may recover any sums already paid in respect of the fraudulent claim, and may choose to terminate the **Policy** from the date of the fraudulent act. Please refer to condition 7.

### HOW TO MAKE A COMPLAINT

If the **Policyholder** is dissatisfied with any aspect of this **Policy**, it should, in the first instance, contact the intermediary which arranged the **Policy**, where applicable. In the event that the **Policyholder** remains dissatisfied and wishes to make a complaint, the **Policyholder** can do this at any time.

To make a complaint, the following information will be required:

- **Policyholder** details; (name, address, email, telephone number)
- **Policy** number/claims reference number
- Background to the complaint.

The **Policyholder** can contact the **Insurer** at:

Evolution Insurance Company Limited  
5/5 Crutchett's Ramp  
Gibraltar  
Email: [complaints@evo-insurance.com](mailto:complaints@evo-insurance.com)

In the event that the **Policyholder** remains dissatisfied after the **Insurer** has considered the complaint, the Policyholder may have the right to refer the complaint to the Financial Ombudsman Service (FOS).

The contact details for the FOS are:

The Financial Ombudsman Service

Exchange Tower

London

E14 9SR

Telephone 0800 023 4567 (calls to this number are free from "fixed lines" in the UK) or 0300 123 9123 (calls to this number are charged at the same rate as 01 and 02 numbers on mobile phone tariffs in the UK).

Email [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk).

The FOS is an independent service in the UK for settling disputes between consumers and businesses providing financial services. More information on the FOS can be found at [www.financial-ombudsman.org.uk](http://www.financial-ombudsman.org.uk)

## DEFINITIONS

Words shown in **bold** type have the same meaning wherever they appear in this **Policy**. The words defined below are used throughout this **Policy**:

**Booking Confirmation** a written confirmation and/or deposit receipt detailing **Travel Arrangements** under the **Lead Name(s)** and issued by the **Policyholder**.

**Card Scheme Rules** the rules applying to merchants and payment services processes relating to the use of a payment instrument, including (but not limited to) the Mastercard Rules and the Visa Core Rules and Visa Product and Service Rules.

**Certificate of Insurance** the document showing the name of the **Policyholder**, their address and insurance details that were sent to the **Policyholder** when the **Insurer** accepted this insurance or following any subsequent amendment to the cover, whichever is the more recent.

**Curtailement** abandoning or cutting short **Travel Arrangements** that have been the subject of a **Booking Confirmation**.

**Cyber Act** an unauthorised or malicious act, a series of related unauthorised or malicious acts, regardless of time and place, or the threat or hoax thereof including access to, processing of, use of or operation of any computer, hardware, software, information technology and communications system or electronic device including any similar system or any configuration of the aforementioned and including any associated input, output or data storage device, networking equipment or booking facility.

**Cyber Loss** any loss, damage, liability, claim, cost or expense directly or indirectly caused by or contributed to by, resulting from, arising out of or in connection with any **Cyber Act**.

**Insolvency**

- a) a bankruptcy order has been made by a court having jurisdiction over the **Policyholder's** affairs
- b) an administration order has been made by a court having jurisdiction over the **Policyholder's** affairs
- c) an effective resolution or order for the voluntary winding up having been made by a court having jurisdiction over the **Policyholder's** affairs

- d) a voluntary agreement or compromise, supervised by an insolvency practitioner, that has been made binding on the **Policyholder**
- e) an administrator, receiver or liquidator having been appointed on behalf of debenture holders or other creditors of the **Policyholder**
- f) such circumstances exist which are, in our opinion, equivalent to the above.

<b>Insurer</b>	Evolution Insurance Company Limited. Registered in Gibraltar No. 88737 with a registered office at 5/5 Crutchett's Ramp, Gibraltar, GX11 1AA.
<b>Lead Name(s)</b>	the person(s) having made a payment to the <b>Policyholder</b> under, or with a view to entering into, a travel contract with the <b>Policyholder</b> for the provision of accommodation and/or carriage of that person(s) and who is specifically named in the <b>Booking Confirmation</b> .
<b>Merchant Services Provider</b>	a person providing the <b>Policyholder</b> with the ability to accept debit and credit card payments for goods and services.
<b>Net Ascertained Financial Loss</b>	<ul style="list-style-type: none"><li>a) Loss of deposit(s) or charge(s) paid by the lead name(s) and/or the passenger(s) to the <b>Policyholder</b></li><li>b) Additional costs reasonably and necessarily incurred following <b>Curtailment</b> of the <b>Travel Arrangements</b> caused by the <b>Insolvency</b> of the <b>Policyholder</b> to enable the <b>Lead Name(s)</b> and/or <b>Passenger(s)</b> to:<ul style="list-style-type: none"><li>i) continue with and complete the scheduled journey or <b>Travel Arrangements</b>. The <b>Policy</b> indemnity in respect of accommodation is limited to the additional cost incurred by the <b>Lead Name(s)</b> and/or <b>Passenger(s)</b> in securing such accommodation of the same or similar standard as enjoyed prior to the <b>Curtailment</b> of the <b>Travel Arrangements</b>.</li><li>ii) return to the original contracted point of departure in the UK or the European Union, this <b>Policy</b> indemnity is limited to the additional cost incurred by the <b>Lead Name(s)</b> and/or <b>Passenger(s)</b> in respect of the same or similar standard of transportation as enjoyed prior to the <b>Curtailment</b> of the <b>Travel Arrangements</b>.</li></ul></li></ul>
<b>Passenger(s)</b>	any natural person travelling or due to travel as part of travel arrangements booked by a <b>Lead Name</b> .
<b>Period of Insurance</b>	the time for which this <b>Policy</b> is in force as stated in the <b>Certificate of Insurance</b> .
<b>Policy</b>	this document, the <b>Certificate of Insurance</b> and any addendums attached hereon.
<b>Policyholder</b>	the entity specified in the <b>Certificate of Insurance</b> .
<b>Sum Insured</b>	the most the insurer will pay as shown in the <b>Certificate of Insurance</b> .
<b>Travel Arrangements</b>	any travel arrangements such as but not limited to a holiday, business or pleasure journey arranged by the <b>Policyholder</b> on behalf of the <b>Lead Name(s)</b> and/or <b>Passenger(s)</b> .

## WARRANTY

It is warranted by the **Policyholder** that at inception of this **Policy** the **Policyholder** has no knowledge or information of matter, fact or circumstance which is likely to give rise to a loss hereunder.

## What is covered

The **Insurer** agrees to indemnify the **Lead Name(s)** and/or **Passenger(s)** as named on the **Policyholder's Booking Confirmation**, subject to the terms conditions and exclusions of this **Policy**, against their **Net Ascertained Financial Loss** sustained or incurred for bookings made during the **Period of Insurance** (regardless of date of travel) arising solely from the **Insolvency** of the **Policyholder**.

In the event of the **Curtailement** of the **Travel Arrangements** for the **Lead Name(s)** and/or **Passenger(s)**, as named on the **Policyholder's Booking Confirmation**, requiring travel to the original contracted destination or point of departure the **Insurer** will pay any reasonable and necessary additional costs incurred by the **Lead Name(s)** and/or **Passenger(s)**, as named on the **Policyholder's Booking Confirmation**, in respect of the same or similar standard of transportation as enjoyed prior to the **Curtailement** of the **Travel Arrangements** up to the amount of the cost of the **Travel Arrangements** so booked or the **Sum Insured**, whichever is the lower amount.

### Merchant Services Endorsement:

In the event that a **Merchant Services Provider** incurs any chargebacks as a result of the **Insolvency** of the **Policyholder** during the **Period of Insurance**, the **Insurer** agrees to indemnify a **Merchant Services Provider** in respect of such chargebacks provided that any claim for indemnity is notified to the **Insurer** during the **Period of Insurance**. The **Insurer** agrees that the relevant **Card Scheme's** decision regarding the validity and value of any such chargeback will be final and binding and **Merchant Services Provider** will not be obliged to investigate or defend the validity and/or value of any chargeback.

## What is not covered

The **Insurer** shall not be liable in respect of any loss directly or indirectly caused by, consequent upon, contributed to, or resulting from any of the following:

1. Actual or threatened war invasion acts of foreign enemies' hostilities or warlike operations (whether war be declared or not) civil war rebellion revolution insurrection civil commotion assuming the proportions of or amounting to an uprising military or usurped power martial law confiscation or nationalisation or requisition or destruction of or damage to property by or under the order of any Government or public or local authority.
2. Any loss, which at the time of the happening of such loss, is insured or guaranteed by or would, but for the existence of this **Policy**, be insured or guaranteed by any other existing policy, policies or bond except in respect of any excess beyond the amount that would have been payable under such other policy, policies or bond had this **Policy** not been effected.
3. Any loss sustained by the **Lead Name(s)** or any **Passenger(s)** or any other person where the **Booking Confirmation** or evidence of coverage was effected after the date of the **Insolvency** of the **Policyholder**.
4. Any **Cyber Loss** sustained by the **Lead Name(s)** or any **Passenger(s)** or any other person.
5. Any knowledge or information of matter, fact or circumstance known by the **Policyholder** at the inception of this **Policy** which was likely to give rise to a loss hereunder.
6. Company Voluntary Arrangement (CVA) where the company has not ceased trading.
7. Any claims under the Merchant Services Endorsement which are notified to the **Insurer** after the expiry of this **Policy**.

## How much we will pay

The **Insurer** shall not be liable for more than the **Sum Insured** stated in the **Certificate of Insurance**.

The most the **Insurer** will pay in total for all claims covered in the **Period of Insurance** is the aggregate **Sum Insured** stated in the **Certificate of Insurance**.

## Conditions

### 1. Notice of Insolvency on Bookings

The **Policyholder** must issue with each **Booking Confirmation** an instruction to follow in the event of the **Policyholder's Insolvency**.

### 2. Loss Mitigation

This **Policy** shall only indemnify **Lead Name(s)** and/or **Passenger(s)** up to the **Sum Insured** if the loss sustained by the **Lead Name(s)** and/or **Passenger(s)** is not recoverable from a third party after the **Lead Name(s)** and/or **Passenger(s)** have taken all legal means available to them to seek a recovery, including all reasonable steps to mitigate their loss, applying for repayment of monies under any rights they may have under section 75 of the Consumer Credit Act 1974 or under any other rights they may have to initiate a chargeback or refund or otherwise seek repayment of monies under any applicable **Card Scheme Rules** (whether in respect of a virtual credit card or otherwise).

### 3. Fraudulent claims by Lead Names and/or Passengers

If the **Lead Name(s)** and/or any **Passenger** makes a claim knowing the same to be false or fraudulent, the **Insurer** has the right to terminate the **Policy** in respect of the **Lead Name(s)** or the **Passenger** who made the fraudulent claim from the date of the fraud by giving notice to the **Policyholder**. If the **Insurer** elects to terminate the **Policy**, all claims in respect of the **Lead Name(s)** or the **Passenger(s)** made after the date of the fraud and all premiums paid hereunder shall be forfeited. The **Policy** will continue in force for all other **Lead Name(s)** and/or **Passenger(s)**.

### 4. Passenger Forecast and Premium

The **Policyholder's** premium has been calculated from the information submitted by the **Policyholder** on the application which included the **Policyholder's Passenger** forecast to be covered under the **Policy**.

Should forecast **Passenger** numbers for any period be underestimated and that shortfall be more than 15% then the **Insurer** reserves the right to re-rate the **Policy**, charge additional premium and to require as a condition of ongoing cover a holding premium deposit reserve (or increase in such reserve if one is already held).

### 5. Premium Payment & Declarations

The **Policyholder** shall submit declarations to the **Insurer** in the format required by the **Insurer** on a monthly basis. The declaration for each month shall be submitted within seven days after the end of the month (for example, the declaration for the month of January shall be due by the 7<sup>th</sup> February).

Declaration procedures must be strictly adhered to, failure to do so may result in the withdrawal or cancellation of this **Policy** by the **Insurer** with no premium refund.

If the premium agreed is subject to adjustment, at the end of each period specified in the **Certificate of Insurance** or otherwise agreed with the **Policyholder**, the **Policyholder** shall declare to the **Insurer** or their agent such particulars for premium adjustment and pay any additional premium due. The **Policyholder** will maintain and keep records necessary to enable the premium to be adjusted on the basis agreed by the **Insurer** and the **Policyholder** shall at all reasonable times permit the **Insurer** or their agent's representatives to examine and verify such records if requested.

At the end of each adjustment period agreed and also at the expiry of this **Policy** the **Policyholder** shall declare to the **Insurer** such particulars for premium adjustment and pay any additional premium due.

### 6. Termination of contract

Termination of the **Policy** will be subject to either party giving 90 days' notice in writing. Termination by the **Policyholder** will result in the forfeit of any premium deposits already paid.

### 7. False or Fraudulent Claims

If the **Policyholder** tries to deceive the **Insurer** by deliberately giving the **Insurer** false information or making a fraudulent claim under this **Policy**, then the **Insurer**

- a) shall be entitled to refuse to make any payment under the **Policy** in respect of any claim made or any loss occurring after the date of any fraudulent act or claim or the provision of such false information; and
- b) may recover from the **Policyholder** any sums paid by the **Insurer** to the **Policyholder** relating to claims made or losses occurring after the date of any fraudulent act or claim or the provision of such false information; and
- c) may by notice to the **Policyholder** treat the **Policy** as having been terminated with effect from the time of the fraudulent act or claim or the provision of such false information.

## 8. Duty of Fair Representation and Misrepresentation

In agreeing to insure the **Policyholder** and in setting the terms and premium, the **Insurer** has relied on the information the **Policyholder** has given to the **Insurer**. The **Policyholder** must provide a fair presentation of the risk and must take care when answering any questions, the **Insurer** asks by ensuring that all information provided is accurate and complete. A fair presentation is one which clearly discloses in a reasonably clear and accessible manner all material facts which the **Policyholder** (including the **Policyholder's** senior management and those responsible for arranging this insurance) know or ought to know following a reasonable search.

If the **Insurer** establishes that the **Policyholder** deliberately or recklessly failed to present the risk to the **Insurer** fairly, the **Insurer** may treat this **Policy** as if it never existed and refuse to make any payment under it. The **Policyholder** must reimburse all payments already made by the **Insurer** and the **Insurer** will be entitled to retain all premiums paid.

If the **Insurer** establishes that the **Policyholder** failed to present the risk to the **Insurer** fairly but that the **Policyholder's** failure was not deliberate or reckless, the remedy the **Insurer** will have available to them will depend upon what they would have done had the **Policyholder** made a fair presentation of the risk, as follows:

- i. If the **Insurer** would not have provided this **Policy**, the **Insurer** may treat it as if it never existed and refuse to make any payment under it. The **Policyholder** must reimburse all payments already made by the **Insurer**. The **Insurer** will refund any premiums the **Policyholder** has paid; or
- ii. if the **Insurer** would have provided this **Policy** on different terms (other than as to premium), the **Insurer** will treat it as if it had been provided on such different terms from the start of the **period of insurance**. This may result in the **Insurer** making no payment for a particular claim or loss. The **Policyholder** must reimburse any payment made by the **Insurer** that the **Insurer** would not have paid if such terms had been in effect

The **Policyholder** must tell the **Insurer** as soon as reasonably possible of any change in circumstances during the **period of insurance** which may materially affect this **Policy** (a material fact or circumstance is one which might affect the **Insurer's** decision to provide insurance or the conditions of that insurance). The **Insurer** may then change the terms and conditions of this **Policy** or cancel it by giving 30 days' notice in writing.

## 9. Sanctions

The **Insurer** shall not be deemed to provide cover and the **Insurer** shall not be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose the **Insurer** to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

## 10. Assignment

Assignment or transfer of this **Policy** shall not be valid without the prior written consent of the **Insurer**.

## 11. Rights of Third Parties Exclusion

This **Policy** is effected solely between the **Policyholder** and the **Insurer**, this **Policy** shall not confer any benefits on any third parties, including shareholders, and no such third party may enforce any term of this **Policy** (with the exception the **Lead Names** and/or **Passengers** in their capacity as beneficiaries of this **Policy**). This clause shall not affect the **Policyholder's** rights.

## 12. Cancellation (Interested Parties Clause)

Where there are interested parties noted on the **Policy**, the **Insurer** will not cancel cover at the **Policyholder's** request without the written consent of all interested parties. This does not affect the **Insurer's** rights to cancel cover in accordance with condition 13.

### **13. Cancellation for Failure to Pay Premium**

In the event of non-payment of premium this **Policy** may be cancelled by or on behalf of the **Insurer** by delivery to the **Policyholder** or by mailing to the **Policyholder** or their agent by registered, certified, or other first class mail, at the **Policyholder's** address as shown in this **Policy**, written notice stating when, not less than fifteen (15) days thereafter, the cancellation shall be effective. The mailing of such notice shall be sufficient proof of notice and this **Policy** shall terminate at the date and hour specified in such notice.

If the period of limitation relating to the giving of notice is prohibited or made void by any law controlling the construction thereof, such period shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

### **14. Arbitration**

Any dispute between the parties arising out of or in connection with this **Policy** shall be referred to and finally resolved by arbitration in accordance with the rules of the London Court of International Arbitration (LCIA).

The number of arbitrators shall be three. In the event of a dispute, each party shall, within ten (10) days after the demand in writing by either party, appoint one arbitrator and the two (2) chosen shall before commencing the arbitration select a chairman.

The seat of arbitration shall be London, England, and the language to be used in the arbitral proceedings shall be English.

The arbitrators together shall determine such matters which the **Policyholder** and the **Insurer** have failed to agree and shall make an award thereon, and the award in writing of any two (2) arbitrators, duly verified, shall determine the same. Costs will be determined in accordance with the LCIA Arbitration Rules.

The award rendered by the arbitrators shall be final and binding upon all parties, and judgment thereon may be entered in any court having jurisdiction.

### **15. Legal action against the Insurer**

No person may bring a legal action against the **Insurer** unless there has been full compliance by the **Policyholder** with all of the terms of this **Policy**; and the action is brought within two (2) years after the expiry or cancellation of this **Policy**.

### **16. Data Protection**

The **Insurer** is the controller of the personal data provided in relation to this **Policy**. The **Insurer** is registered with the Gibraltar Regulatory Authority (GRA) as a data controller and is listed on the Register of Data Controllers under registration number DP003699. The **Insurer's** full Privacy Notice is available at [www.evo-insurance.com/privacy](http://www.evo-insurance.com/privacy).

### **17. Governing Law**

The construction, validity and performance of this **Policy** shall be governed by the Laws of England and Wales unless otherwise agreed by the **Insurer**.