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## PRODUCT HIGHLIGHT

# Management Liability Policy

The Berkley FinSecure **Management Liability Policy** has been specifically designed so the Financial Institution is able to select coverages they want to protect their business. In these descriptions the term company means the insured entity.

### COVERAGES

#### **Insuring Agreement A – Directors and Officers Liability:**

The insurer shall pay on behalf of the directors and officers, loss for which the directors and officers are not indemnified by the company and which the directors and officers become legally obligated to pay as a result of any claim first made against them for a management practices act.

A management practices act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by any director or officer in their capacity as such, other than a fiduciary act, IRA/Keogh/Health Savings Account act, employment practices act, third party harassment act, electronic banking act, electronic publishing act, security breach or trust act.

Coverage is extended to include claims for management practices acts made against a director or officer in their capacity of serving as a director or officer, volunteer or other equivalent position of a non-profit entity, if such service is with the knowledge or consent of, at the direction or request of, or part of the duties regularly assigned to the director or officer by the company.

#### **Insuring Agreement B – Company Indemnification:**

The Insurer shall pay on behalf of the company, loss for which the company grants indemnification to a director or officer, as permitted or required by law, and for which such director or officer has become legally obligated to pay as a result of any claim for a management practices act.

Coverage is extended to include claims for management practices acts made against a director or officer in their capacity of serving as a director or officer, volunteer or other equivalent position of a non-profit entity, if such service is with the knowledge or consent of, at the direction or request of, or part of the duties regularly assigned to the director or officer by the company.

#### **Insuring Agreement C - Company Professional and Depository Service Liability:**

The Insurer shall pay on behalf of the company and the employees, loss which the company or the employees become legally obligated to pay as a result of any claim for a professional and depository services act.

A professional and depository services act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by an insured in the rendering or failure to render professional and depository services other

*Berkley FinSecure provides effective and efficient insurance solutions and claims handling to the financial services industry and our empowered industry experts are dedicated to providing personal service you can rely on. Berkley FinSecure is backed by the strength and protection of the W.R. Berkley Corporation.*

This material does not amend, or otherwise affect, the provisions or coverage of any insurance policy issued by any W. R. Berkley Corporation member insurance company. It is not a representation that coverage does or does not exist for any particular claim or loss under any such policy. Coverage depends on the facts and circumstances involved in the claim or loss, all applicable policy provisions, and any applicable law. Availability of coverage referenced in this document can depend on underwriting qualifications and state regulations.

than a securities act, lending act, fiduciary act, IRA/Keogh/Health Savings Account act, employment practices act, third party harassment act, electronic banking act, electronic publishing act, security breach, or trust act.

Coverage is extended to include reimbursement to the company for costs incurred to mitigate or correct direct monetary damages to the customer as a result of a professional and depository service act.

#### **Insuring Agreement D – Company Securities Liability:**

The Insurer shall pay on behalf of the company and the employees, loss which the company or the employees become legally obligated to pay as a result of any claim for a securities act.

A securities act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by the company involving the sale or purchase of, or offer to sell or purchase debt or equity securities issued by the company.

Coverage is extended up to \$50,000 for the reasonable costs, charges, fees (including attorneys' fees and experts' fees) and expenses (other than regular or overtime wages, salaries or fees of a director, officer or employee) incurred by the company, in connection with the company's investigation or evaluation of any claim for a securities act.

#### **Insuring Agreement E - Company Lender Liability:**

The Insurer shall pay on behalf of the company and the employees, loss which the company or the employees become legally obligated to pay as a result of any claim for a lending act. A lending act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by a director, officer, employee or the company, in connection with or relating to:

- an agreement to or refusal to grant or extend a loan, lease or extension of credit;
- the granting or extending of a loan, lease or extension of credit;
- loan servicing, including the servicing of loans for others under a contract or agreement; or
- the restructure, termination, transfer, repossession or foreclosure of a loan, lease or extension of credit.

#### **Insuring Agreement F - Fiduciary Liability:**

The Insurer shall pay on behalf of the directors, officers, employees and the company, loss which the directors, officers, employees, or the company become legally obligated to pay as a result of any claim for a fiduciary act.

A fiduciary act is any actual or alleged breach of the responsibilities, obligations or duties imposed upon any insured in its capacity as a fiduciary of any plan by any common or statutory law of the United States of America or any other jurisdiction anywhere in the world, and any negligent act, error or omission in the administration of a plan.

Coverage is extended up to \$100,000 for any fees, penalties or sanctions imposed by law under for a voluntary compliance program or a voluntary settlement program administered by the IRS.

#### **Insuring Agreement G – IRA/Keogh/Health Savings Account Liability:**

The Insurer shall pay on behalf of directors, officers, employees and the company, loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an IRA/Keogh/Health Savings Account act.

An IRA/Keogh/Health Savings Account act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by a director, officer, employee or the company in their

capacity as a trustee of an individual retirement account (IRA), H.R. 10 (Keogh) Plan or Health Savings Account.

**Insuring Agreement H – Employment Practices Liability:**

The Insurer shall pay on behalf of the directors, officers, employees and the company, loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an employment practices act, provided that such claim is brought by or on behalf of any federal, state, provincial or local governmental body, or any past, present or prospective director, officer or employee.

An employment practices act is any actual or alleged;

- violation of any federal, state, provincial or local statutory law, common law or civil law prohibiting discrimination of any kind;
- harassment, including any type of sexual, workplace, religious, racial, sexual orientation, pregnancy, disability, age, or national origin-based harassment;
- an act that creates an abusive or hostile work environment, whether based on gender, religion, age, disability, race, national origin, pregnancy, marital status, sexual orientation or other legally protected status;
- wrongful discharge or termination, whether actual or constructive;
- wrongful failure or refusal to hire;
- bullying in the workplace; or
- any other wrongful employment related practice related to the actual or prospective employment of any person by the company.

**Insuring Agreement I – Third Party Harassment Liability:**

The Insurer shall pay on behalf of the directors, officers, employees and the

company, loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for a third party harassment act. A third party harassment act is any actual or alleged:

- violation of any federal, state, provincial or local statutory law, common law or civil law prohibiting discrimination of any kind;
- harassment, including any type of sexual, religious, racial, sexual orientation, pregnancy, disability, age, or national origin-based harassment;
- defamation, libel, slander, disparagement or invasion of privacy;
- false arrest, false imprisonment or malicious prosecution; or
- bullying of a natural person other than an employee, officer or director and other than as part of a lending act.

**Insuring Agreement J – Electronic Banking Liability:**

The Insurer shall pay on behalf of directors, officers, employees and the company, loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an electronic banking act.

An electronic banking act is any actual or alleged error, misstatement, misleading statement, act, omission, neglect, or breach of duty which results in any:

- unauthorized use of, or unauthorized access to, electronic data or software within any covered electronic system;
- malicious, subversive or unauthorized introduction or implantation of any computer code, program or other data into, or attack upon, any covered electronic system causing the alteration, distortion, deletion, destruction, degradation, corruption, malfunction, compromise or loss of access to a covered electronic system;

- unintentional transmission of malicious computer code to another party from a covered electronic system; or
- unintentional act, error or omission made by the company's authorized personnel in the course of their duties, in connection with the creation, development, modification or implementation of any set of instructions to direct the operations and function of the company's covered electronic systems.

**Insuring Agreement K – Electronic Publishing Liability:**

The Insurer shall pay on behalf of the directors, officers, employees and the company, loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for an electronic publishing act. An electronic publishing act is any actual or alleged:

- libel or slander resulting from the electronic publishing of material that defames a person or organization or disparages the goods, products or services of a person or organization;
- plagiarism, false light or false advertising, resulting from electronic publishing activities;
- violation of the right of privacy or right of publicity of any person or organization by the electronic publishing of material that publicly discloses private facts or commercially appropriates the name or likeness of such person or organization;
- infringement of a copyright, title, trademark, trade dress, trade name, service mark, service name or slogan via electronic publishing activities; or
- unauthorized use of titles, formats, performances, style, characters, plots or other protected material via electronic publishing activities.

**Insuring Agreement L – Trust Liability:**

The Insurer shall pay on behalf of the directors, officers, employees and the company, loss which the directors, officers, employees or the company become legally obligated to pay as a result of any claim for a trust act.

A trust act is any error, misstatement, misleading statement, act, omission, neglect, or breach of duty actually or allegedly committed or attempted by an insured in their capacity as:

- administrator of a decedent's estate, executor or trustee under a will or personal or corporate trust agreement;
- conservator or guardian of any person;
- representative of any person lawfully vested with any trust powers;
- interest or dividend disbursing agent, transfer or paying agent, fiscal agent, registrar of securities, agent for voting trustees, warrant agent, depositor or agent for a committee of holders of securities, sinking fund agent, escrow agent, tax withholding agent, exchange agent, redemption or subscription agent or trustee agent or trustee under a corporate bond indenture; or
- trustee exercising any other trust or fiduciary powers permitted by law other than an IRA/Keogh/Health Savings Account act or a fiduciary act.

Coverage is extended to reimburse an insured for the costs incurred to mitigate or correct direct monetary damage a customer of the company suffers as the result of any trust act, subject to the insured obtaining the insurer's prior written consent.

**Insuring Agreement M – Security Breach - Privacy Liability:**

The Insurer shall pay on behalf of the directors, officers, employees and the company, loss which the directors, officers, employees or the company

become legally obligated to pay as a result of any claim for a security breach.

A security breach is the unauthorized access, other than through an electronic banking act, to the private or confidential information of any of the company's customers, directors, officers or employees while such information is in the company's care, custody or control.

**Insuring Agreement N – Security Breach Expenses:**

The Insurer shall pay on behalf of the company, security breach expenses which the company incurs during the policy period, the automatic reporting period, or, if exercised, the extended reporting period, as the result of a security breach taking place before the expiration of the policy. Such expenses include but are not limited to the cost to notify affected customers, change account numbers, reissue debit or credit cards, and provide one year of basic credit monitoring to affected customers.

**Insuring Agreement O – Public Relations Expenses:**

The Insurer shall pay on behalf of the company, public relation expenses which the company incurs during the policy period, the automatic reporting period, or, if exercised, the extended reporting period, as the result of negative publicity caused by a wrongful act covered under the policy.

**Insuring Agreement P – Rewards:**

The Insurer shall pay on behalf of the company, rewards which the company pays during the policy period, the automatic reporting period, or, if exercised, the extended reporting period for information that leads to the arrest and conviction of any individual committing or trying to commit an illegal act related to an electronic banking act or security breach that occurs during the policy period.

**Civil Money Penalties Endorsement:**

The Insurer shall pay to a director or officer, who purchases this coverage, civil money penalties imposed against and paid by such director or officer, during the

policy period, the automatic reporting period, or, if exercised, the extended reporting period, for a wrongful act covered under the policy. Civil money penalties are those penalties assessed against a director or officer solely in their capacity as a director or officer of the company by any federal or state banking regulatory agency.

**Excess Directors and Officers Liability Endorsement:**

The Insurer shall pay on behalf of the directors and officers, excess loss for which the directors and officers are not indemnified by the company due to a proper reason.

Excess loss means the part of loss which is the result of a claim covered under an insuring agreement for which coverage was purchased under the policy and which exceeds the Policy Year Limit of Liability for such insuring agreement.

Proper reason means the following reasons for which the company does not indemnify a director or officer:

- the company is not allowed or required by law to indemnify the director or officer; or
- the company is not able to indemnify the director or officer due to financial impairment.

**Note:**

The policy is written on a claims made basis and covers only claims first made during the policy period, the Automatic Reporting Period or, if exercised, the Extended Reporting Period.

Coverage is limited to claims for acts which take place after the retroactive date, if there is one.