PRIVATE CHOICE PREMIER^{SM} POLICY
FOR
COMMUNITY BANKS

BANKERS PROFESSIONAL LIABILITY COVERAGE PART

I. INSURING AGREEMENT

(A) Banking Services Liability

The Insurer shall pay **Loss** on behalf of an **Insured** resulting from a **Claim** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, for a **Wrongful Act** by an **Insured,** or a natural person or entity for whose acts the **Insured** is legally liable, in the rendering of, or failure to render, **Banking Services** for or on behalf of a **Banking Customer**.

(B) Lending Services Liability

The Insurer shall pay **Loss** on behalf of an **Insured** resulting from a **Claim** first made against such **Insured** during the **Policy Period** or Extended Reporting Period, if applicable, for a **Wrongful Act** by an **Insured,** or a natural person or entity for whose acts the **Insured** is legally liable, in the rendering of, or failure to render, **Lending Services** for or on behalf of a **Lending Customer**.

II. DEFINITIONS

The following terms, whether used in the singular or plural, shall have the meanings specified below:

- **"Beneficial Interest"** means the:

  (1) direct or indirect ownership or control of more than 25% of the outstanding securities representing the right to vote for the election of the board of directors of an entity;

  (2) control in any manner of the right to vote for the election of a majority of the board of directors of an entity; or

  (3) power to exercise a controlling influence over the management or policies of an entity.

- **"Claim"** means any:

  (1) written demand for monetary damages or other civil non-monetary relief commenced by the receipt of such demand against an **Insured**;

  (2) civil proceeding, including an arbitration or other alternative dispute proceeding, commenced by the service of a complaint, filing of a demand for arbitration, or similar pleading against an **Insured**;

  (3) criminal proceeding commenced by the return of an indictment, or formal administrative or regulatory proceeding commenced by the filing of a notice of charges, or similar document against an **Insured**; or

(4) formal civil, criminal, administrative or regulatory investigation of an **Insured** in which such **Insured** is being investigated pursuant to a Wells Notice, target letter (within the meaning of Title 9, §11.151 of the U.S. Attorney's Manual), subpoena or similar document, as someone against whom a proceeding as set forth above may be brought.

Claim also means a written request to an **Insured** to toll or waive a statute of limitations regarding a potential **Claim** as described above. Such **Claim** shall be commenced by the receipt of such request.

- **"Damages"** means the amounts, other than **Defense Costs**, that the **Insureds** are legally liable to pay solely as a result of a **Claim** covered by this **Liability Coverage Part**, including:

  (1) compensatory damages;

  (2) settlement amounts;

  (3) pre- and post-judgment interest;

  (4) costs awarded pursuant to judgments;

  (5) punitive and exemplary damages; or

  (6) the multiple portion of any multiplied damage award; or

  (7) where permissible by law, and notwithstanding sub-paragraph (a) below, civil penalties assessed against any **Insured Person** pursuant to Section 2(g)(2)(B) of the Foreign Corrupt Practices Act (15 U.S.C. §§ 78dd-2(g)(2)(B)).

  However, **Damages** shall not include:

  (a) taxes, fines or penalties imposed by law;

  (b) non-monetary relief;

  (c) costs incurred in testing for, abating, monitoring, cleaning-up, removing, containing, treating, detoxing or neutralizing **Biological Agents, Pollutants**, nuclear material or nuclear waste.

  (d) the return of any fees, commissions, compensation or charges earned by or paid to any **Insured Entity**;

  (e) any principal, interest or other monies paid, accrued or due as the result of any loan, lease or extension of credit;

  (f) the cost of complying with law, regulatory guidelines or mandates; or

  (g) any matters uninsurable pursuant to any applicable law; provided, however, that with respect to punitive and exemplary damages, or the multiple portion of any multiplied damage award, the insurability of such damages shall be governed by the internal laws of any applicable jurisdiction that most favors coverage of such damages.

- **"Insured(s)"** means any **Insured Entity** or **Insured Person**.

- **Insured Person"** means any **Manager** or **Employee.**

- **“Notice Manager”** means the natural persons in the offices of the chief executive officer, chief financial officer, risk manager, general counsel or any equivalent position to the foregoing, of the **Named Entity**.

- **“Wrongful Act”** means any actual or alleged error, misstatement, misleading statement, act, omission, neglect, or breach of duty.

III. EXCLUSIONS APPLICABLE TO ALL INSURING AGREEMENTS

The Insurer shall not pay **Loss**:

(A) for bodily injury, sickness, disease, emotional distress, mental anguish, or death of any person; provided, however, that this exclusion shall not apply to that portion of **Loss** directly resulting from emotional distress or mental anguish arising from the rendering of, or failure to render, **Professional Services**;

(B) in connection with any **Claim** based upon, arising from, or in any way related to any prior or pending written demand, suit or proceeding against any **Insureds** as of the applicable Prior or Pending Date in ITEM 5 of the Declarations or the same or any substantially similar fact, circumstance or situation underlying or alleged in such demand, suit or proceeding;

(C) in connection with any **Claim** based upon, arising from, or in any way related to any fact, circumstance, situation or **Wrongful Act** that, before the Inception Date in ITEM 3 of the Declarations, was the subject of any notice given under any other professional liability, or similar insurance policy, of which this coverage part is a direct or indirect renewal or replacement if such notice is accepted under such other policy;

(D) in connection with any **Claim** based upon, arising from, or in any way related to any:

(1) actual or alleged discharge, dispersal, release, or escape of **Pollutants**, or any threat of such discharge, dispersal, release or escape;

(2) direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize **Pollutants**;

(E) in connection with any **Claim** based upon, arising from, or in any way related to any:

(1) actual or alleged presence of, suspected presence of or exposure to **Biological Agents**;

(2) failure to discover or disclose the existence of any **Biological Agents**, from any source whatsoever; or

(3) direction, request or voluntary decision to test for, abate, monitor, clean up, remove, contain, treat, detoxify or neutralize **Biological Agents**;

(F) in connection with any **Claim** based upon, arising from, or in any way related to an actual or alleged false arrest or imprisonment, abuse of process, malicious prosecution, defamation (including libel and slander), discrimination, sexual harassment, violation of any rights of privacy, trespass, nuisance or wrongful entry or eviction, assault, battery, loss of consortium; provided, however, that this exclusion shall not apply to that portion of **Loss** directly resulting from defamation (including libel and slander) or discrimination while rendering, or failing to render, **Professional Services**;

(G) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged violation of **ERISA** or any similar law;

(H) in connection with any **Claim** brought or maintained by or on behalf of any **Insureds** (in any capacity), provided, however, that this exclusion shall not apply to the portion of **Loss** directly resulting from:

(1) a **Claim** by or on behalf of an **Employee** who is not a past or present **Manager**, provided that such **Claim** is made without the assistance, participation or solicitation of any **Manager** and such **Claim** is brought by the **Employee** solely in his or her capacity as a **Customer**;

(2) a civil proceeding by or on behalf of a former **Manager** who has not served in such capacity for at least one year prior to such **Claim** being made, provided that such **Claim** is made without the assistance, participation or solicitation of any current **Manager** or any former **Manager** who has served in such capacity during the one year prior to such **Claim** being made and such **Claim** is brought by the **Manager** solely in his or her capacity as a **Customer**; or

(3) a civil proceeding by or on behalf of an **Insured** for contribution or indemnification if such **Claim** directly results from a **Claim** that is otherwise covered under this **Liability Coverage Part**;

(4) a **Claim** brought and maintained in a jurisdiction outside the United States of America, Canada, Australia or any other common law country (including territories thereof) by a **Manager** due to a pleading requirement of such jurisdiction;

(I) of an **Insured,** based upon, arising from, or in any way related to the gaining of any personal financial profit, remuneration or advantage to which such **Insured** is not legally entitled if a judgment or other non-appealable final adjudication in the underlying action establishes that such a gain did occur;

(J) of an **Insured**, based upon, arising from, or in any way related to any criminal or deliberately fraudulent act or omission or any willful violation of law by such **Insured** if a judgment or other non-appealable final adjudication in the underlying action establishes such an act, omission or violation;

Regarding exclusions (I) and (J) above: The **Wrongful Act** of an **Insured Person** shall not be imputed to any other **Insured Person**, and only the **Wrongful Acts** of a past or present chief executive officer, chief financial officer, general counsel or any position equivalent to the foregoing of the **Named Entity** shall be imputed to the **Named Entity**.

(K) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged liability under any contract or agreement, provided, however, that this exclusion shall not apply to:

(1) the extent that liability would have been incurred in the absence of such contract or agreement; or

(2) that portion of **Loss** directly resulting from the rendering of or failure to render **Professional Services**;

(L) for the inability or failure by any bank or banking firm or broker and/or dealer in securities or commodities to make any payment or settle or effect any transaction of any kind; provided, however, that this exclusion shall not apply to **Defense Costs**;

(M) in connection with any **Claim** based upon, arising from, or in any way related to:

(1) the rendering of, or failure to render, any investment banking services, including but not limited to any advice in connection with corporate mergers, acquisitions, restructurings, divestitures, issuance of securities, syndication or similar activities; or

(2) any acquisition or sale of securities by the **Insured** for such **Insured's** own account;

(N) in connection with any **Claim** based upon, arising from, or in any way related to the operation or control of any entity or property that the **Insured** acquired as security or collateral for any loan, lease or extension of credit;

(O) in connection with any **Claim** based upon, arising from, or in any way related to any function or activity as a receiver, trustee in bankruptcy, conservator or assignee for the benefit of creditors;

(P) in connection with any **Claim** based upon, arising from, or in any way related to the mechanical or electronic failure, breakdown or malfunction of any machine or system of machines;

(Q) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged infringement, dilution or misappropriation of copyright, patent, trademark, trade name, trade dress, service mark, trade secrets, or other intellectual property;

(R) in connection with any **Claim** by or on behalf of any entity upon which an **Insured Person** is serving or has served as a director, officer, trustee, regent, governor or equivalent executive of such entity; provided, however, that this exclusion shall not apply to that portion of **Loss** directly resulting from a **Claim** brought by such entity solely in its capacity as a **Customer** of the **Insured Entity,** provided such **Claim** is brought without the solicitation, assistance or participation of any **Insured**;

(S) in connection with any **Claim** brought or maintained by or on behalf of any person or entity (including but not limited to any shareholder, bondholder, or debenture holder), their estate, heirs, legal representatives or assigns, with a legal or equitable interest in any stock, bond, debenture, or other form of security or ownership interest of the **Insured Entity**; provided, however, that this exclusion shall not apply to that portion of **Loss** directly resulting from any **Claim** brought by such person or entity solely in its capacity as a **Customer** or the **Insured Entity**, provided such **Claim** is brought without the solicitation, assistance or participation of any **Insured**;

(T) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged rendering of, or or failure to render, medical or health care services, architectural or construction management services, real estate development or construction services, or legal services;

(U) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged rendering of, or failure to render, **Trust Department Services**;

(V) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged:

(1) unauthorized access to or unauthorized use of any **Computer System**;

(2) transmission or receipt of malicious code, including but not limited to, computer viruses, Trojan Horses, worms, spy-ware or malware;

(3) unauthorized or improper collection, control, disclosure, or use of nonpublic personal information (NPI) within the care, custody or control of the **Insured** or any party for whom the **Insured** is legally liable;

(4) partial or total failure, interruption, degradation, suspension or delay in the service of the **Insured's Computer System;**

(5) improper and unintentional disclosure of third party corporate confidential information provided to the **Insured** and protected under the nondisclosure or confidentiality provision of a contract;

(6) gaining of access to an entity's information utilized in e-commerce, e-mail and file transfers, by any person who is not authorized to gain such access;

(7) threat to cause any of the circumstances stated in sub-paragraphs (1) – (6) above; or

(8) intentional misleading of a person to induce the **Insured** to part with money, securities, commodities, or other property;

(W) in connection with any **Claim** based upon, arising from, or in any way related to any disputes for any overdraft fees or charges related to or resulting from the processing of checks or drafts; or

(X) in connection with any **Claim** based upon, arising from, or in any way related to damage to, or destruction, loss, or diminution in value of, any property, including, without limitation, any money, securities, other property of value in the care, custody, or control of the **Insured Organization**, its correspondent bank or other authorized representative, and regardless of whether any such property is, or is able to be, stored in a safe deposit box or in transit.

IV. EXCLUSIONS APPLICABLE TO INSURING AGREEMENT (A)

The Insurer shall not pay **Loss** under Insuring Agreement (A):

(A) in connection with any **Claim** based upon, arising from, or in any way related to the actual or alleged rendering of, or failing to render, any information or network technology services;

(B) in connection with any **Claim** based upon, arising from, or in any way related to the actual or alleged activities of an **Insured** as a Broker, Dealer or Underwriter, as those terms are defined in the Securities Act of 1933 and the Securities Exchange Act of 1934;

(C) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged rendering of, or failing to render, financial advisory services; or

(D) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged rendering of, or failing to render, insurance agent or insurance broker services.

V. EXCLUSIONS APPLICABLE TO INSURING AGREEMENT (B)

The Insurer shall not pay **Loss** under Insuring Agreement (B):

(A) in connection with any **Claim** based upon or arising from, or in any way related to any actual or alleged loan, lease or extension of credit which was, at the time of its making, in excess of the legal lending limit of the **Insured Entity**;

(B) in connection with any **Claim** based upon, arising from, or in any way related to the actual or alleged violation of any (1) usury laws or regulation; or (2) any federal or state law or regulation prohibiting discriminatory extensions or denials of credit, or discriminatory agreements or refusals to lend, including the Truth-in-Lending Act, Equal Credit Opportunity Act, Fair Credit Reporting Act, Fair Debt Collection Practices Act, the Home Owners Equity Protection Act of 1994, Fair Credit Billing Act, as amended;

(C) in connection with any **Claim** based upon, arising from, or in any way related to the appointment of any conservator, liquidator, receiver, rehabilitator, trustee, or similar official to control, supervise, manage or liquidate any **Insured Entity** or other entity;

(D) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged extension of credit, or agreement to lend, to any **Insured Person** or to any entity in which an **Insured Person** has a **Beneficial Interest**; or

(E) in connection with any **Claim** based upon, arising from, or in any way related to any actual or alleged rendering of, or failing to render, any service that is not reasonably necessary as part of the process of effecting an extension of credit or agreement to lend.

VI. NOTICE OF CLAIM

(A) As a condition precedent to coverage under this **Liability Coverage Part**, the **Insureds** shall give the Insurer written notice of any **Claim** as soon as practicable after a **Notice Manager** becomes aware of such **Claim**, but in no event later than:

(1) if this Policy expires or is otherwise terminated without being renewed with the Insurer, ninety (90) days after the effective date of said expiration or termination; or

(2) the expiration of the Extended Reporting Period, if applicable;

provided, however, that if the Policy is cancelled for non-payment of premium, the **Insured** will give the Insurer written notice of such **Claim** prior to the effective date of cancellation.

(B) If during the **Policy Period** the **Insureds** become aware of a **Wrongful Act** that may reasonably be expected to give rise to a **Claim,** and if written notice of such **Wrongful Act** is given to the Insurer during the **Policy Period**, including the reasons for anticipating such a **Claim**, the nature and date of the **Wrongful Act**, the identity of the **Insureds** allegedly involved, the alleged injuries or damages sustained, the names of potential claimants, and the manner in which the **Insureds** first became aware of the **Wrongful Act**, then any **Claim** subsequently made which arises from such **Wrongful Act** shall be deemed to be a **Claim** first made during the **Policy Period,** and therefore subject to the terms and conditions of this Policy, including, without limitation, Section VII. of the Common Terms and Conditions and the reporting requirements set forth in Section V.(A) above, on the date that the Insurer receives the above notice.

