



LIBERTY SURPLUS INSURANCE CORPORATION

ENDORSEMENT NO.

This endorsement, effective forms part of
Policy No. issued to

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY

**EXECUTIVE ADVANTAGE PRIVATE COMPANY ENDORSEMENT
(with Employment Practices Liability carve-out)**

It is agreed that this Policy shall be amended as follows:

I. Section 1.3 (Insuring Agreements) is deleted and replaced with the following:

Insured Organization Liability: The Insurer shall pay on behalf of the **Insured Organization** all **Loss** which it shall become legally obligated to pay as a result of a **Claim**, including a **Securities Action**, first made during the **Policy Period** or **Discovery Period**, if applicable, against the **Insured Organization** for a **Wrongful Act** which takes place before or during the **Policy Period**.

II. Section 5 (Exclusions) is amended as follows:

A. Exclusion 5.4 is deleted and replaced with the following:

for violation of the Worker Adjustment and Retraining Notification Act, the National Labor Relations Act, the Fair Labor Standards Act, Equal Pay Act, the Occupational Safety and Health Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Employee Retirement Income Security Act of 1974, or rule or regulation promulgated thereunder, or similar federal, state, local, or common laws, rules or regulations;

III. Section 5 (Exclusions) is amended to include the following additional exclusions which shall apply to all Insuring Agreements:

5.11 based upon, arising from, or in any way related to any **Employee's** actual or alleged entitlement to insurance or other benefits under any workers' compensation, unemployment compensation, disability, retirement, or social security laws, rules or regulations;

5.12 for, based upon, arising from, or in any way related to any public offering of securities by the **Insured Organization** or the purchase or sale of such securities subsequent to such public offering; however, this exclusion shall not apply to the private placement of the **Insured Organization's** securities directly sold to a limited number of investors and exempted from the registration requirements of the Securities Act of 1933.

5.13 for, based upon, arising from, on in any way related to an **Employment Practices Action**.

IV. This policy is amended to include Section 5A (Exclusions), which shall be applicable only to the **Insured Organization** under Insuring Agreement 1.3:

Under Section 5A, the Insurer shall not be liable to make any payment for **Loss** in connection with any **Claim** made against the **Insured Organization**:

5A.1 based upon, arising from, or in any way related to any request for injunctive relief, declaratory relief, disgorgement, job reinstatement, or any other equitable remedy; however, this exclusion shall not apply to **Defense Costs**;

5A.2 based upon, arising from, or in any way related to any actual or alleged infringement or violation of copyright, patent, trademark, trade secret, or other intellectual property rights;

5A.3 based upon, arising from, or in any way related to any actual or alleged violation of any law, rule, or regulation relating to anti-trust, restraint of trade, unfair business practice or interference with another's business, contractual or economic relationships or interests;

5A.4 based upon, arising from, or in any way related to a labor dispute, negotiation or any proceeding in connection with a collective bargaining agreement;

5A.5 based upon, arising from, or in any way related to the actual or alleged rendering of or failure to render any professional service to a customer or

client of the **Insured Organization**; however, this exclusion shall not apply to any **Securities Action**; or

5A.6 based upon, arising from, or in any way related to any actual or alleged obligation of the **Insured Organization** under any express contract or agreement.

VI. Section 25 (Definitions), is amended as follows:

A. The definition of **“Claim”**, set forth in Section 25.3, shall be deleted and replaced with the following:

- (a) a written demand for monetary or non-monetary relief against an **Insured Person** or, with respect to Insuring Agreement 1.3, against the **Insured Organization**;
- (b) the commencement of a civil or criminal judicial proceeding or arbitration against an **Insured Person** or, with respect to Insuring Agreement 1.3, against the **Insured Organization**;
- (c) the commencement of an arbitration or formal administrative or regulatory proceeding against an **Insured Person** or, with respect to Insuring Agreement 1.3, against the **Insured Organization**, or
- (d) the commencement of a formal criminal, administrative or regulatory investigation against an **Insured Person** or, with respect to Insuring Agreement 1.3, against the **Insured Organization**;

including any appeal therefrom. A **Claim** will be deemed first made on the date an **Insured** receives a written demand, complaint, indictment, notice of charges, or order of formal investigation.

E. Section 25 (Definitions) is amended to include the following:

25.21 **“Employee”** means:

- (1) any past, present or future employee of the **Insured Organization** (including any officers of the **Insured Organization**), whether such employee is in a supervisory, co-worker, subordinate or other position, including any part-time, seasonal and temporary employee in his/her capacity as such; and
- (2) solely with respect to an **Employment Practices Action**, any natural person who is a leased or loaned employee to the **Insured Organization**; provided that such natural person shall be deemed an **Employee** only if, and to the extent that, the

Insured Organization provides indemnification to such natural person for services rendered as if they were rendered by an actual employee of the **Insured Organization** in his/her capacity as such.

25.22 “**Employment Practices Action**” means a **Claim** brought by or on behalf of an **Employee** or an applicant for employment with the **Insured Organization** which, in whole or in part, is based upon or arises from any actual or alleged:

- (1) wrongful dismissal, discharge or termination (whether actual, constructive or retaliatory) of employment, wrongful failure or refusal to hire or promote, wrongful discipline or demotion, failure to grant tenure, or negligent employment evaluation;
- (2) sexual or other workplace harassment, including quid pro quo and hostile work environment;
- (3) unlawful employment discrimination, including discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy, disability, or other protected class or characteristic established under applicable federal, state or local law;
- (4) invasion of privacy, employment-related defamation (including libel and slander), employment-related wrongful infliction of emotional distress, or any employment-related misrepresentation made to an **Employee** or an applicant for employment;
- (5) failure of the **Insured Organization** to create, provide for or enforce adequate or consistent employment-related policies or procedures;
- (6) retaliatory treatment against an **Employee** of the **Insured Organization** on account of such **Employee’s** exercise or attempted exercise of his or her employment-related rights under law;
- (7) violation of a natural person’s employment-related civil rights relating to any of the above; and
- (8) violation of the Family and Medical Leave Act;

All other terms, conditions, and exclusions of this Policy remain unchanged.