

Exclusions

Named Insured: Agents of Penn Mutual Life Insurance Company and Registered Representatives of Hornor Townsend and Kent, Inc. who have enrolled for coverage, paid a premium, are scheduled by the Insurer, and are members of the Financial Sales Professionals Purchasing Group

Policy Number: MKLM7PLCA00104

Insurer: Markel American Insurance Company

Policy Period: August 1, 2024 to August 1, 2025

This Policy shall not apply to, and the **Insurer** shall pay neither **Damages** nor **Claim Expenses** for, any **Claim**:

- A. For any actual or alleged sickness, disease, death or other bodily injury, including, but not limited to, emotional distress and mental anguish, or damage to or destruction of property, including loss of use thereof;
- B. Against an **Insured**:
 - 1. By or on behalf of any other **Insured**, any enterprise that owns, operates or controls an **Insured** or any enterprise that an **Insured** owns, operates or controls, provided, however, that this Exclusion shall not apply to any **Claim** otherwise covered under Section I – Insuring Agreement **B. Managing Agents Management Liability**;
 - 2. By or on behalf of any individual, company or entity that is not a client of the **Insured**, including, but not limited to, an insurance company or insurance agent or broker; provided, however, that this exclusion shall not apply to a **Claim** brought by or on behalf of an actual or alleged beneficiary of a product referenced in Paragraph 1. of Definition **P. Professional Services** above;
- C. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving:
 - 1. Any **Wrongful Act** or **Management Wrongful Act** alleged in any **Claim** which has been reported or circumstance of which notice has been given, prior to the **Policy Period**, or before the effective date of the Insured's enrollment for coverage, under any other policy; or
 - 2. Any other **Wrongful Act** or **Management Wrongful Act**, whenever occurring, which together with a **Wrongful Act** or **Management Wrongful Act** which has been the subject of such **Claim** or notice, would constitute **Interrelated Management Wrongful Acts**, regardless of the legal grounds upon which such **Claim** is predicated upon any:
 - a. **Claim**, demand, suit, proceeding or investigation of which the **Insured** had knowledge, pending on or prior to the inception date of the **Policy Period**, or before the effective date of the **Insured's** enrollment for coverage hereunder; or
 - b. Fact, matter, circumstance, situation, transaction or event underlying or alleged in such demand, suit, proceeding, **Claim** or investigation, regardless of the legal grounds upon which such **Claim** is predicated;
- D. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any:
 - 1. Actual or alleged dishonest, purposeful, malicious, fraudulent or criminal act or willful violation of any federal, state or local statute, by, at the direction of or with the knowledge of any **Insured**; or
 - 2. Gaining of profit, remuneration or monetary advantage to which an **Insured** is not legally entitled.

However, the **Insurer** shall continue to defend a **Claim** alleging any of the foregoing conduct until there is a judgment, final adjudication, adverse admission or finding of fact against any **Insured** as to

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such conduct, at which time the **Insured** shall reimburse the **Insurer** for the costs of defending the **Claim**. Moreover, an actual or alleged dishonest, purposeful, malicious, fraudulent or criminal act or willful violation of any federal, state or local statute of one **Agent** or **Managing Agent** will not be imputed to another **Agent** or **Managing Agent**;

- E. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged conversion, commingling, use, handling, entrustment, safeguarding, inability to pay or failure to pay premiums, funds or any form of money;
- F. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged liability of others assumed by any **Insured** under an agreement, contract, guarantee or warranty unless the **Insured** would be liable in the absence of such agreement, contract, guarantee or warranty;
- G. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged rendering of services as an actuary, accountant, attorney, real estate agent, real estate broker, third-party claims administrator, property and casualty agent or broker or expert witness, regardless of whether such services are incidental to the rendering of **Professional Services**; however, this exclusion shall not apply to tax advice provided to a client as a necessary part of rendering **Professional Services**;
- H. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged placement of a client's coverage or funds, directly or indirectly with any organization, entity or vehicle of any kind, nature or structure which is not licensed or authorized to do business in the state or jurisdiction with authority to regulate such business; however, this exclusion shall not apply to a **Claim** based upon or arising out of the placement of insurance or coverage with an eligible surplus lines insurer in the state or jurisdiction with authority to regulate such business;
- I. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged insolvency, receivership, conservatorship, liquidation, bankruptcy, failure or inability to pay of any company, organization, entity, vehicle or arrangement of any nature in which an **Insured** placed, recommended to be placed or obtained coverage or in which an **Insured** placed, recommended to be placed funds or an investment of any nature; however, this exclusion shall not apply to a **Claim** based upon or arising out of the placement, recommendation for placement or obtaining coverage with an insurance company rated by A.M Best's as B+ or better at the time when coverage is placed, recommended or obtained;
- J. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any pension plan, profit sharing plan, health and welfare or any other employee benefit plan or trust sponsored by an **Insured**, in which an **Insured** is a participant, trustee or named fiduciary;
- K. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any pension plan, profit sharing plan, health and welfare or any other employee benefit plan or trustor which are self-funded, in whole or in part;

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- L. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any ownership, formation, operation or administration of any insurance company, captive, risk retention group, self-insurance program or purchasing group;
- M. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged:
 - 1. Unfair competition;
 - 2. Anti-competitive acts;
 - 3. Restraint of trade;
 - 4. Price fixing;
 - 5. Monopolization;
 - 6. Misuse of confidential or proprietary information;
 - 7. Copyright, patent, trade mark or trade secret infringement;
 - 8. Piracy, theft or conversion of ideas, employees, contacts or business methods; or
 - 9. Illegal, improper or deceptive advertisement;
- N. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged actual or alleged discrimination or harassment in any form or manner;
- O. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any failure, malfunction or breakdown of any computers, electrical, electronic or mechanical systems or machines;
- P. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged notarization of documents without authorization or without the signatory's actual presence before an **Insured**;
- Q. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged guarantee, promise or warranty as to interest rates, market values, earnings, future values or future premiums or payments in connection with variable life insurance, variable annuities, scheduled premium annuities, mutual funds or **Securities**;
- R. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any **Securities** (other than variable life insurance, variable annuities and mutual funds) that were not authorized or approved by and actually processed through the **Broker/Dealer**;
- S. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any function of an **Insured** as a specialist or market maker for any **Securities**, an **Insured** failing to make a market for any **Securities**, or the purchase, sale or failure to sell **Securities** when the **Insured** is a specialist or market maker for such **Securities**;
- T. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving an Insured's actual or alleged exercise of discretionary authority over a client's assets, funds or liabilities, undertaking of trades or transactions on a discretionary basis or any trading or transactions without the express authority of a client; however, this exclusion shall not apply to the exercising of discretionary authority;

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1. By the Broker/Dealer as a Registered Investment Advisor;
 2. As an Associated Person while acting on behalf of the Sponsoring Company's Subsidiary Registered Investment Advisor with respect to mutual funds, variable annuities or variable life products;
 3. As an Associated Person while acting on behalf of the Sponsoring Company's Subsidiary Registered Investment Advisor while providing asset management allocation services for a fee with respect to mutual funds, variable annuities or variable life products;
 4. As an Outside Registered Investment Advisor or an affiliated Associated Person of the Outside Registered Investment Advisor while providing an advisory program where an outside money manager is used, provided that such activity is authorized and approved in writing by the Broker/Dealer;
 5. As an Outside Registered Investment Advisor or an affiliated Associated Person of the Outside Registered Investment Advisor, provided that such activity is authorized and approved in writing by the Broker/Dealer; or
 6. As an Associated Person or Registered Representative, who has elected this coverage and paid an additional premium, while acting on behalf of the Sponsoring Company's Subsidiary Registered Investment Advisor or Broker/Dealer, provided such activity is authorized and approved in writing by the Broker/Dealer. Evidence of this election shall be kept on file by CalSurance.
- U.** Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving:
1. Promissory notes, viatical or life settlements, or any **Securities** backed by either viatical or life settlements;
 2. Commodities, commodity futures and option contracts, except for option contracts that are covered by ownership of the underlying **Securities**, cash or cash equivalent, not including margin;
 3. Any "junk bonds" or "high yield bonds" (for purposes of this exclusion, "junk bonds" or "high yield bonds" mean bonds which, at the time of purchase or sale were unrated or rated as below investment grade by any rating agency, including, but not limited to, Moody's bonds of Ba or lower or S&P bonds of BB or lower);
 4. Any **Securities** sold exclusively outside of the United States of America or Canada;
 5. Actual, attempted or threatened mergers, acquisitions, divestitures, tender offers, proxy contests, leveraged buy-outs, going private transactions, reorganizations, capital restructuring, recapitalization, fairness opinions, spin-offs, primary or secondary offerings of **Securities** (regardless of whether the offering is a public offering or a private placement) or other efforts to raise or furnish capital or financing for any company, corporation, enterprise or entity or disclosure requirements in connection with any of the foregoing, as well as any other investment banking activities;

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6. Structured settlements; however, this exclusion shall not apply to a **Claim** arising out of or based upon the sale or servicing of the underlying product, if otherwise covered by this Policy; and
 7. Any **Securities** that are wholly or partially owned by any **Insured**;
 8. Callable certificates of deposit and debentures; and
 9. any Securities or investment/financial products backed by mortgages, including, but not limited to CMOs, CDOs, and CDS;
- V. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving:
1. Actual or alleged use or disclosure, aiding or abetting use or disclosure or participation after the fact in use or disclosure of non-public or insider information as prohibited by any federal, state or local laws, statutes, regulations or ordinances, including but not limited to, the Insider Trading and Securities Fraud Enforcement Act of 1988, Section 10(b) of the Securities Exchange Act of 1934 and Securities Exchange Commission Rule 10b-5 thereunder;
 2. In whole or in part, individually or in conjunction with other matters, Crypto Currency and/or NFT; however this Exclusion shall not apply to mutual funds or securities registered with the Securities and Exchange Commission that are publicly traded on a national exchange.
 3. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving activities of an Insured, or any other individual or entity, as a Navigator or Assister as defined under the Affordable Care Act, unless such Navigator or Assister is appropriately certified under the Affordable Care Act; and
 4. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving transactions which, with regard to OHIE or Cover Oregon, do not include commercially reasonable written disclosures and signed acknowledgments from the client.
- W. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving, actual or alleged advice, consultation or recommendations of any type of mortgage, including, but not limited to, a reverse mortgage, regardless of whether an incidental part of the rendering of **Professional Services**.
- X. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving Securities,
- Private Placements and/or investment or financial products issued by the following and/or any related, associated or affiliated companies, organizations, partnerships, syndicates or entities of any nature:
1. ETS/ATM Payphones;
 2. DBSI Management and DBSI, Inc.;
 3. Provident Royalties;
 4. Medical Capital Note Program;
 5. Shale Royalties;

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1. Black Diamond Program;
2. Desert Capital REIT;
3. IMH Secured Loan Fund;
4. GPB Capital Holdings, LLC. and/or any company, corporation, parent, subsidiary, partnership or other business entity directly or indirectly owned or controlled by or associated or affiliated with GPB Capital Holdings, LLC or any employee, partner, officer, director, agent, representative or other person associated with any of the foregoing; and
5. GWG L Bonds.

This Policy shall not apply to, and the Insurer shall pay neither **Cyber Management Expenses, Credit Monitoring Costs, Damages, Claim Expenses, Extortion Payments nor First Party Loss:**

1. Arising out of, based upon or in consequence of, directly or indirectly resulting from of in any way involving any actual or alleged:
 - a. Costs or expenses for the reprinting, reposting, recall, removal or disposal of any online content or any other information, content or media, including any media or products containing such online content, information, content or media;
 - b. Wear and tear or gradual deterioration of any data saved on an Insured's Computer System or a Network;
 - c. Costs or expenses incurred by any Insured or others:
 - (1) To recall, repair, withdraw, replace, upgrade, supplement or remove the Insured's online content, products or services from the marketplace, including but not limited to products or services which incorporate the Insured's online content, products or services; or
 - (2) For any loss of use by any Insured or others that arises out of such recall, repair, withdrawal, replacement, upgrade, supplement or removal.
 - d. Failure to use best efforts to install commercially available software product updates and releases, or to apply security related software patches, to computers and other components of the Insured's Computer System or a Network;
 - e. Seizure, confiscation, destruction or nationalization of Insured's Computer System or a Network; or any data accessed by or on behalf of any governmental or public authority;
 - f. Interruption, suspension, failure or outage of any component of the Internet, including without limitation any hardware or software infrastructure supporting the Internet;
 - g. Fine or penalty arising out of any agreement by any Insured to comply with or follow the PCI Standard or any Payment Card Company rules, or to implement, maintain or comply with any security measure(s) or standards related to any payment card data;

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- h. Unsolicited electronic faxes, emails, telephone calls or unsolicited communications, including but not limited to unsolicited electronic messages, chat room postings, bulletin board postings, newsgroup postings, "pop-up" or "pop-under" Internet advertising or fax-blasting, direct mailing or telemarketing, or actual or alleged violations of the Telephone Consumer Protection Act, of 1991, as amended, the CAN-SPAM Act of 2003, as amended, and any other federal, foreign or state anti-spam statutes, or federal, foreign or state statute, law or regulation relating to a person's right to seclusion; or
 - i. Unauthorized or illegal collection of Personal Information, including but not limited to the collection of Personal Information using cookies, spyware, or other malicious code, or the failure to provide adequate notice that Personal Information is being collected;
2. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any section 605 (requirements relating to information contained in consumer reports) or Section 616 (civil liability for willful noncompliance) of the Fair Credit Reporting Act, or any other similar federal, state or local laws or regulations, including but not limited to any laws or regulations requiring truncation of payment card numbers on, or the removal of the expiration date from, payment card receipts; or
3. Covered in whole or in part under any other insurance.

This Policy shall not apply to, and the **Insurer** shall pay neither **Damages** nor **Claim Expenses** for any **Social Engineering Claim**:

1. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any actual or alleged:
 - a. Costs or expenses for the reprinting, reposting, recall, removal or disposal of any online content or any other information, content or media, including any media or products containing such online content, information, content or media;
 - b. Costs or expenses incurred by any **Insured** or others:
 - (1) To recall, repair, withdraw, replace, upgrade, supplement or remove the **Agent's** online content, products or services from the marketplace, including but not limited to products or services which incorporate the **Agent's** online content, products or services; or
 - (2) For any loss of use by any **Insured** or others that arises out of such recall, repair, withdrawal, replacement, upgrade, supplement or removal;
 - c. Fine or penalty arising out of any agreement by any **Insured** to comply with or follow the PCI Standard or any Payment Card Company rules, or to implement, maintain or comply with any security measure(s) or standards related to any payment card data; or

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 - e. Unauthorized or illegal collection of any data or information, including but not limited to the collection of any data or information using cookies, spyware, or other malicious code, or the failure to provide adequate notice that data or information is being collected; or
 - f. Liability of the **Sponsoring Company**.
2. Arising out of, based upon or in consequence of, directly or indirectly resulting from or in any way involving any Section 605 (requirements relating to information contained in consumer reports) or Section 616 (civil liability for willful noncompliance) of the Fair Credit Reporting Act, or any other similar federal, state or local laws or regulations, including but not limited to any laws or regulations requiring truncation of payment card numbers on, or the removal of the expiration date from, payment card receipts; or
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