

BERKSHIRE HILLS BANCORP INC  
Form DEF 14A  
April 02, 2013  
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UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

**SCHEDULE 14A**

Proxy Statement Pursuant to Section 14(a) of  
the Securities Exchange Act of 1934 (Amendment No. )

Filed by the Registrant

Filed by a Party other than the Registrant

Check the appropriate box:

- Preliminary Proxy Statement
- Confidential, for Use of the Commission Only (as permitted by Rule 14a-6(e)(2))**
- Definitive Proxy Statement
- Definitive Additional Materials
- Soliciting Material under §240.14a-12

Berkshire Hills Bancorp, Inc.  
(Name of Registrant as Specified In Its Charter)

(Name of Person(s) Filing Proxy Statement, if other than the Registrant)

Payment of Filing Fee (Check the appropriate box):

- No fee required.
- Fee computed on table below per Exchange Act Rules 14a-6(i)(1) and 0-11.
  - (1) Title of each class of securities to which transaction applies:  
N/A
  - (2) Aggregate number of securities to which transaction applies:  
N/A
  - (3) Per unit price or other underlying value of transaction computed pursuant to Exchange Act Rule 0-11 (set forth the amount on which the filing fee is calculated and state how it was determined):  
N/A
  - (4) Proposed maximum aggregate value of transaction:  
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N/A
- Fee paid previously with preliminary materials.
- Check box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing for which the offsetting fee was paid previously. Identify the previous filing by registration statement number, or the Form or Schedule and the date of its filing.
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N/A
  - (2) Form, Schedule or Registration Statement No.:  
N/A
  - (3) Filing Party:  
N/A
  - (4) Date Filed:  
N/A



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April 2, 2013

Dear Stockholder:

You are cordially invited to attend the annual meeting of stockholders of Berkshire Hills Bancorp, Inc. to be held at:

The Crowne Plaza Hotel

One West Street

Pittsfield, Massachusetts 01201

Thursday, May 9, 2013

10:00 a.m., local time

The notice of annual meeting and proxy statement appearing on the following pages describe the formal business to be transacted at the meeting. Directors and officers of the Company, as well as a representative of PricewaterhouseCoopers LLP, the Company's independent registered public accounting firm, will be present to respond to appropriate questions of stockholders.

It is important that your shares are represented at this meeting, whether or not you attend the meeting in person and regardless of the number of shares you own. **To make sure your shares are represented, we urge you to complete and mail the enclosed proxy card promptly.** If you attend the meeting, you may vote in person even if you have previously voted.

**The Board of Directors unanimously recommends that you vote FOR each of the proposals to be presented at the annual meeting.**

Sincerely,

/s/ Michael P. Daly

/s/ Lawrence A. Bossidy

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Michael P. Daly  
*Chairman of the Board, President and Chief Executive Officer*

Lawrence A. Bossidy  
*Lead Independent Director of the Board of Directors*

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**24 North Street**

**Pittsfield, Massachusetts 01201**

**(413) 443-5601**

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**NOTICE OF 2013 ANNUAL MEETING OF STOCKHOLDERS**

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**TIME AND DATE** 10:00 a.m. on Thursday, May 9, 2013

**PLACE** The Crowne Plaza Hotel  
One West Street Pittsfield,  
Massachusetts 01201

- ITEMS OF BUSINESS**
- (1) To elect four directors to serve for a term of three years.
  - (2) To approve the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan.
  - (3) To consider a non-binding proposal to give advisory approval of our executive compensation as described in the proxy statement.
  - (4) To ratify the selection of PricewaterhouseCoopers LLP as our independent registered public accounting firm for fiscal year 2013.
  - (5) To transact such other business as may properly come before the meeting and any adjournment or postponement thereof.

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**RECORD DATE**

Stockholders as of the close of business on the record date, March 14, 2013, are entitled to one vote for each share of common stock held at that time.

**VOTING**

It is important that your shares be represented and voted at the meeting. You can vote your shares by completing and returning the proxy card or voting instruction card sent to you. Voting instructions are printed on your proxy or voting instruction card and included in the accompanying proxy statement. Stockholders owning their shares through a broker, bank or other nominee may be able to vote by telephone or by the Internet. Please see the enclosed voting instructions on how to vote your shares. You can revoke a proxy at any time before its exercise at the meeting by following the instructions in the proxy statement.

/s/ Wm. Gordon Prescott  
Wm. Gordon Prescott  
*Corporate Secretary*

April 2, 2013

**IMPORTANT NOTICE REGARDING THE AVAILABILITY OF PROXY MATERIALS FOR THE ANNUAL MEETING OF STOCKHOLDERS TO BE HELD ON MAY 9, 2013 THIS PROXY STATEMENT AND BERKSHIRE HILLS BANCORP, INC. S 2012 ANNUAL REPORT TO STOCKHOLDERS ARE EACH AVAILABLE AT [HTTP://BHLB.INVESTORROOM.COM](http://BHLB.INVESTORROOM.COM).**

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**Berkshire Hills Bancorp, Inc.**

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**Proxy Statement**

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**Berkshire Hills Bancorp, Inc.**

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**Proxy Statement**

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**General Information**

We are providing this proxy statement to you in connection with the solicitation of proxies by the Board of Directors of Berkshire Hills Bancorp, Inc. for the 2013 Annual Meeting of Stockholders and for any adjournment or postponement of the meeting. In this proxy statement, we may also refer to Berkshire Hills Bancorp, Inc. as Berkshire Hills, the Company, Berkshire, we, our or us.

Berkshire Hills is the holding company for Berkshire Bank and Berkshire Insurance Group, Inc. In this proxy statement, we may also refer to Berkshire Bank as the Bank.

We are holding the 2013 Annual Meeting at The Crowne Plaza Hotel, One West Street, Pittsfield, Massachusetts on May 9, 2013 at 10:00 a.m., local time.

We intend to mail this proxy statement and the enclosed proxy card to stockholders of record beginning on or about April 2, 2013.

**Information About Voting**

**Who Can Vote at the Meeting**

You are entitled to vote the shares of Berkshire Hills common stock that you owned as of the close of business on March 14, 2013. As of the close of business on March 14, 2013, a total of 25,331,698 shares of Company common stock were outstanding. Each share of common stock has one vote.

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The Company's Certificate of Incorporation provides that a record owner of the Company's common stock who beneficially owns, either directly or indirectly, in excess of 10% of the Company's outstanding shares, is not entitled to any vote in respect of the shares held in excess of the 10% limit. To our knowledge, there are no such record owners as of March 14, 2013.

### Ownership of Shares; Attending the Meeting

You may own shares of Berkshire Hills in one of the following ways:

- Directly in your name as the stockholder of record;
- Indirectly through a broker, bank or other holder of record in street name ; or
- Indirectly in the Berkshire Hills Bancorp, Inc. Stock Fund of our 401(k) Plan, the trust that holds restricted stock awards issued to directors and employees under our equity plans, or through the Rome Bancorp, Inc. Employee Stock Ownership Plan, Beacon Federal Retirement Savings Plan, or Beacon Federal Employee Stock Ownership Plan.

If your shares are registered directly in your name, you are the holder of record of these shares and we are sending these proxy materials directly to you. As the holder of record, you have the right to give your proxy directly to us or to vote in person at the meeting. If you wish to vote at the meeting, you will need to bring proof of identity.

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If you hold your shares in street name, your broker, bank or other holder of record is sending these proxy materials to you. As the beneficial owner, you have the right to direct your broker, bank or nominee how to vote by filling out a voting form that accompanies your proxy materials. Your broker, bank or nominee may allow you to provide voting instructions by telephone or by the Internet. Please see the form provided by your broker, bank or nominee that accompanies this proxy statement.

If you hold your shares in street name and wish to attend the meeting, you will need to bring proof of ownership to be admitted to the meeting. A recent brokerage statement or letter from a bank or broker are examples of proof of ownership. If you want to vote your shares of Berkshire Hills common stock held in street name in person at the meeting, you must obtain a written proxy in your name from the broker, bank or nominee who is the record holder of your shares. You will also need to bring proof of identity to vote at the meeting.

**Quorum and Vote Required**

**Quorum.** We will have a quorum and will be able to conduct the business of the annual meeting if the holders of a majority of the outstanding shares of common stock entitled to vote are present at the meeting, either in person or by proxy.

**Votes Required for Proposals.** At this year's annual meeting, stockholders will elect four directors to serve a term of three years. In voting on the election of directors, you may vote in favor of the nominees, withhold votes as to all nominees, or withhold votes as to specific nominees. There is no cumulative voting for the election of directors. Directors must be elected by a plurality of the votes cast at the annual meeting. This means that the four nominees receiving the greatest number of votes will be elected. However, if a director is elected by a plurality but less than a majority of the votes cast for such director, such director must submit his or her resignation to the Board of Directors, which resignation may then be accepted or rejected by the Board following a review by the Corporate Governance/Nominating Committee.

In voting on the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan ( 2013 Equity Incentive Plan ), you may vote in favor of the proposal, vote against the proposal, or abstain from voting. To approve the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan, the affirmative vote of a majority of the votes cast at the annual meeting is required.

In voting on the non-binding proposal to give advisory approval of our executive compensation, you may vote in favor of the proposal, vote against the proposal or abstain from voting. To approve the proposal, the affirmative vote of a majority of the votes cast at the annual meeting is required. While this vote is required by law, it will neither be binding on us or the Board of Directors, nor will it create or imply any change in the fiduciary duties of, or impose any additional fiduciary duty on us or the Board of Directors.

In voting on the ratification of the appointment of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm, you may vote in favor of the proposal, vote against the proposal or abstain from voting. To ratify the selection of PricewaterhouseCoopers LLP as our independent registered public accounting firm for fiscal year 2013, the affirmative vote of a majority of the votes cast at the annual meeting is required.

***Routine and Non-Routine Proposals.*** Applicable rules determine whether proposals presented at stockholder meetings are routine or non-routine. If a proposal is routine, a broker or other entity holding shares for an owner in street name may vote on the proposal without receiving voting instructions from the owner. If a proposal is non-routine, the broker or other entity may vote on the proposal only if the owner has provided voting instructions. The New York Stock Exchange ( NYSE ) allows its member-brokers to vote shares held by them for their customers on matters the NYSE determines are routine, even

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though the brokers have not received voting instructions from their customers. The NYSE currently considers the ratification of our independent auditors (Item 4) as a routine matter. Your broker, therefore, may vote your shares in its discretion on this routine matter if you do not instruct your broker how to vote on it. If the NYSE does not consider a matter routine, then your broker is prohibited from voting your shares on the matter unless you have given voting instructions on that matter to your broker. The NYSE no longer considers the election of directors or compensation matters to be routine (Items 1, 2 and 3). Therefore, brokers holding shares for their customers will not have the ability to cast votes with respect to the election of directors, the Company's 2013 Equity Incentive Plan and the Company's executive compensation, unless they have received instructions from their customers. **It is important, therefore, that you provide instructions to your broker if your shares are held by a broker so that your vote with respect to these non-routine matters are counted.**

**How We Count Votes.** If you return valid proxy instructions or attend the meeting in person, we will count your shares to determine whether there is a quorum, even if you abstain from voting. Broker non-votes also will be counted to determine the existence of a quorum.

In the election of directors, votes that are withheld and broker non-votes will have no effect on the outcome of the election.

In counting votes on the proposals to approve the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan, to give advisory approval of our executive compensation, and to ratify the selection of the independent registered public accounting firm, we will not count abstentions or broker non-votes as votes cast on these proposals. Therefore, abstentions and broker non-votes will have no impact on the outcome of these proposals.

**Solicitation of Proxies.** The Company will bear the entire cost of soliciting proxies from you. In addition to solicitation of proxies by mail, we will request that banks, brokers and other holders of record send proxies and proxy materials to the beneficial owners of Berkshire Hills Bancorp, Inc. common stock and secure their voting instructions, if necessary. We have also made arrangements with Phoenix Advisory Partners to assist us in soliciting proxies and have agreed to pay them a fee of \$6,500 plus reasonable expenses for their services. If necessary, we may also use several of its employees, who will not be specially compensated, to solicit proxies from stockholders, personally or by telephone, facsimile or letter.

**Voting by Proxy**

**The Company's Board of Directors is sending you this proxy statement to request that you allow your shares of Company common stock to be represented at the annual meeting by the persons named as proxies on the enclosed proxy card.** All shares of Company common stock represented at the meeting by properly executed and dated proxies will be voted according to the instructions indicated on the proxy card. If you sign, date and return a proxy card without giving voting instructions, your shares will be voted as recommended by the Company's Board of Directors.

**The Board of Directors unanimously recommends that you vote FOR each of the nominees for director, FOR the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan, FOR our executive compensation as described in this proxy statement, and FOR ratification of the appointment of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for fiscal year 2013.**

If any matters not described in this proxy statement are properly presented at the annual meeting, the persons named as proxies on the proxy card will use their judgment to determine how to vote your shares. This includes a motion to adjourn or postpone the meeting to solicit additional proxies. If the annual meeting is postponed or adjourned, your Company common stock may be voted by the persons

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named in the proxy card on the new meeting date, provided such new meeting occurs within 30 days of the annual meeting and you have not revoked your proxy. The Company does not currently know of any other matters to be presented at the meeting.

You may revoke your proxy at any time before the vote is taken at the meeting. To revoke your proxy, you must either advise the Corporate Secretary of the Company in writing before your common stock has been voted at the annual meeting, deliver a later dated proxy or attend the meeting and vote your shares in person by ballot. Attendance at the annual meeting will not in itself constitute revocation of your proxy. You may advise the Company's Corporate Secretary of your revocation in writing to Berkshire Hills Bancorp, Inc. at 24 North Street, P.O. Box 1308, Pittsfield, Massachusetts 01202, care of Wm. Gordon Prescott, Corporate Secretary.

**Participants in the Berkshire Bank 401(k) Plan**

If you invest in Berkshire Hills common stock through the Berkshire Hills Bancorp Stock Fund in our 401(k) Plan, you will receive a voting instruction card that reflects all shares you may vote under the plan. Under the terms of the 401(k) Plan, a participant is entitled to direct the trustee how to vote the shares in the Berkshire Hills Bancorp, Inc. Stock Fund credited to his or her account. The trustee will vote all shares for which it does not receive timely instructions from participants in the same proportion as shares for which the trustee received voting instructions. **Your voting instructions must be received by May 2, 2013.**

**Former Participants in the Rome Bancorp, Inc. Employee Stock Ownership Plan, Beacon Federal Employee Stock Ownership Plan, and Beacon Federal Retirement Savings Plan**

As a result of our acquisitions of Rome Bancorp, Inc. and Beacon Federal Bancorp, Inc., the Rome Bancorp, Inc. Employee Stock Ownership Plan, Beacon Federal Employee Stock Ownership Plan, and Beacon Federal Retirement Savings Plan (collectively, the Plans) hold Berkshire Hills common stock. If you are a former participant in any of these Plans, you are entitled to direct the applicable Plan Trustee on how to vote the shares of Berkshire Hills common stock allocated to your account. Each former participant in the Plan will receive a voting instruction card that reflects all the shares that he or she is entitled to vote. The applicable Plan Trustee will vote all shares for which it does not receive timely instructions from participants in the same proportion as shares for which the applicable Plan Trustee received voting instructions. **Your voting instructions must be received by May 2, 2013.**

**Holders of Non-Vested Restricted Stock Awards**

If you have been granted a restricted stock award under the Berkshire Hills Bancorp, Inc. Amended and Restated 2003 Equity Compensation Plan or the 2011 Equity Incentive Plan (collectively referred to as the Incentive Plan), you will receive a voting instruction card that reflects all unvested shares of Berkshire Hills common stock subject to the restricted stock award that you may vote under the Incentive Plan. Under the terms of the Incentive Plan, a participant is entitled to direct the trustee how to vote the unvested shares of restricted Berkshire Hills common stock awarded to him or her. The trustee will vote the shares of Berkshire Hills common stock held in the Incentive Plan Trust in accordance with instructions it receives from you and other stock award recipients. **Your voting instructions must be received by May 2, 2013.**





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The Company's Board of Directors currently consists of 13 members, all of whom are independent under the listing requirements of The New York Stock Exchange, except for Messrs. Daly and Curley, who are officers of Berkshire Hills and Berkshire Bank, and Mr. Dunlaevy, by reason of his Non-Competition and Consulting Agreement with the Company, dated April 6, 2011, pursuant to Legacy Bancorp, Inc.'s merger with and into the Company. In determining the independence of its directors, the Board considered transactions, relationships and arrangements between the Company and its directors that are not required to be disclosed in this proxy statement under the heading *Transactions with Related Persons*, including loans or lines of credit that the Bank has directly or indirectly made to Directors Altmeyer, Auriemma, Daly, Mahoney, Phelps, Raser and Templeton.

**Corporate Governance Policy**

The Board of Directors has adopted a corporate governance policy to govern certain activities, including: the duties and responsibilities of directors; the composition, responsibilities and operation of the Board of Directors; the operation of board committees; succession planning; convening executive sessions of independent directors; the Board of Directors' interaction with management and third parties; and the evaluation of the performance of the Board of Directors and of the Chief Executive Officer. A copy of the corporate governance policy is available in the Governance Documents portion of the Investor Relations section of the Company's website ([www.berkshirebank.com](http://www.berkshirebank.com)).

**Committees of the Board of Directors**

The following table identifies our standing committees and their members. All members of the Audit Committee, the Compensation Committee and the Corporate Governance/Nominating Committee are independent in accordance with the listing requirements of The New York Stock Exchange. Each committee operates under a written charter that is approved by the Board of Directors that governs its composition, responsibilities and operation. Each committee reviews and reassesses the adequacy of its charter at least annually. The charters of all five committees are available in the Governance Documents portion of the Investor Relations section of the Company's website ([www.berkshirebank.com](http://www.berkshirebank.com)).

Director	Audit Committee	Compensation Committee	Corporate Governance/Nominating Committee	Risk Management Committee	Capital Committee
Geno Auriemma**					
Lawrence A. Bossidy		X	X		
Robert M. Curley				X*	X
Michael P. Daly					
John B. Davies		X*	X		
Rodney C. Dimock		X		X	
J. Williar Dunlaevy				X	X

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Susan M. Hill	X*				
Cornelius D. Mahoney			X		X*
David E. Phelps***	X		X*		
Barton D. Raser	X				X
D. Jeffrey Templeton	X			X	
Number of Meetings in 2012	8	7	8	7	6

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\* Denotes Chairperson

\*\* Mr. Auriemma was appointed to the Board of Directors of the Company on May 10, 2012.

\*\*\* Mr. Phelps has determined that he will not stand for re-election at the 2013 Annual Meeting of Stockholders.

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**Audit Committee**

The Audit Committee assists the Board of Directors in its oversight of the Company's accounting and reporting practices, the quality and integrity of the Company's financial reports and the Company's compliance with legal and regulatory requirements related to accounting and financial reporting. The Audit Committee oversees the Company's internal audit function and annually reviews and approves an internal audit plan. The Committee is also responsible for engaging the Company's independent registered public accounting firm and monitoring its performance and independence. Each member of the Audit Committee is independent under the listing requirements of The New York Stock Exchange and the rules of the Securities and Exchange Commission applicable to audit committee members. The Board of Directors has designated Director Hill as an audit committee financial expert under the rules of the Securities and Exchange Commission.

**Compensation Committee**

The Compensation Committee approves the compensation objectives for the Company and its subsidiaries and establishes the compensation for the Chief Executive Officer and other executives. The Compensation Committee also reviews the Company's incentive compensation and other equity plans and recommends changes to the plans as needed. The Compensation Committee reviews all compensation components for the Company's Chief Executive Officer and other highly compensated executive officers, including base salary, annual incentive, long-term incentives/equity, benefits and other perquisites. In addition to reviewing competitive market factors, the Compensation Committee also examines the total compensation mix, pay-for-performance relationship, and how all elements, in the aggregate, comprise the executive's total compensation package. Decisions by the Compensation Committee with respect to the compensation of executive officers are approved by the full Board of Directors. See *Compensation Discussion and Analysis* for more information regarding the role of the Compensation Committee, management and compensation consultants in determining and/or recommending the amount or form of executive compensation.

**Corporate Governance/Nominating Committee**

The Company's Corporate Governance/Nominating Committee assists the Board of Directors in: (1) identifying qualified individuals to serve as Board members, (2) determining the composition of the Board of Directors and its committees, (3) monitoring a process to assess Board effectiveness and (4) developing and implementing the Company's corporate governance guidelines. The Corporate Governance/Nominating Committee also considers and recommends the nominees for director to stand for election at the Company's annual meeting of stockholders.

**Minimum Qualifications.** The Corporate Governance/Nominating Committee has adopted a set of criteria that it considers when it selects individuals to be nominated for election to the Board of Directors. A candidate must meet the eligibility requirements set forth in the Company's bylaws, which include a residency requirement and a requirement that the candidate not have been subject to certain criminal or regulatory actions. A candidate also must meet any qualification requirements set forth in any Board or committee governing documents.

These qualifications include:

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- No person shall be eligible for election or appointment to the Board of Directors: (i) if such person has, within the previous 10 years, been the subject of supervisory action by a financial regulatory agency that resulted in a cease and desist order or an agreement or other written statement subject to public disclosure under 12 U.S.C. 1818(u), or any successor provision; (ii) if such person has been convicted of a crime involving dishonesty or breach of trust which is punishable by imprisonment for a term exceeding

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one year under state or federal law; (iii) if such person is currently charged in any information, indictment, or other complaint with the commission of or participation in such a crime; and (iv) except for persons serving as members of the initial Board of Directors or except as otherwise approved by the Board of Directors, unless such person has been, for a period of at least one year immediately prior to his or her nomination or appointment, a resident of a county in which the Company or its subsidiaries maintains a banking office or a county contiguous to any such county.

- No person shall be eligible for election or appointment to the Board of Directors if such person is the nominee or representative of a company, as that term is defined in Section 10 of the Home Owners Loan Act or any successor provision, of which any director, partner, trustee or shareholder controlling more than 10% of any class of voting stock would not be eligible for election or appointment to the Board of Directors.

- No person may serve on the Board of Directors and at the same time be a director of more than two other public companies, or their subsidiaries.

- No person shall be eligible for election to the Board of Directors if such person is the nominee or representative of a person or group, or of a group acting in concert (as defined in 12 C.F.R Section 574.4(d)), that includes a person who is ineligible for election to the Board of Directors.

- The Board of Directors shall have the power to construe and apply the provisions of the Company's bylaws and other governance documents, and to make all determinations necessary or desirable to implement such provisions, including but not limited to determinations as to whether a person is a nominee or representative of a person, a company or a group, whether a person or company is included in a group, and whether a person is the nominee or representative of a group acting in concert.

If the candidate is deemed eligible and qualified for election to the Board of Directors, the Corporate Governance/Nominating Committee will then evaluate the following criteria in selecting nominees:

- financial, regulatory and business experience;
- familiarity with and participation in the local communities;
- integrity, honesty and reputation in connection with upholding a position of trust with respect to customers;
- dedication to the Company and its stockholders; and

- independence.

The Committee also will consider any other factors the Corporate Governance/Nominating Committee deems relevant, including age, diversity, size of the Board of Directors and regulatory disclosure obligations. We do not maintain a specific diversity policy, but diversity is considered in our review of candidates. Diversity is considered in terms of how a candidate's background, experience, qualifications, attributes and skills may complement, supplement or duplicate those of other prospective candidates.

With respect to nominating an existing director for re-election to the Board of Directors, the Corporate Governance/Nominating Committee will consider and review an existing director's Board and

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committee attendance and performance; length of Board service; the experience, skills and contributions that the existing director brings to the Board; and independence.

**Director Nomination Process.** The Corporate Governance/Nominating Committee has adopted a process to identify and evaluate individuals to be nominated for election to the Board of Directors. For purposes of identifying nominees, the Corporate Governance/Nominating Committee relies on personal contacts of the committee members and other members of the Board of Directors, as well as its knowledge of members of the communities served by the Company and its subsidiaries. The Corporate Governance/Nominating Committee will also consider director candidates recommended by stockholders in accordance with the policy and procedures set forth below. The Corporate Governance/Nominating Committee has not previously used an independent search firm to identify nominees.

In evaluating potential nominees, the Corporate Governance/Nominating Committee determines whether the candidate is eligible and qualified for service on the Board of Directors by evaluating the candidate under certain criteria, which are described above under *Minimum Qualifications*. If such individual fulfills these criteria, the Corporate Governance/Nominating Committee will conduct a check of the individual's background and interview the candidate to further assess the qualities of the prospective nominee and the contributions he or she would make to the Board.

**Consideration of Recommendations by Stockholders.** It is the policy of the Corporate Governance/Nominating Committee of the Board of Directors of the Company to consider director candidates recommended by stockholders who appear to be qualified to serve on the Company's Board of Directors. The Corporate Governance/Nominating Committee may choose not to consider an unsolicited recommendation if no vacancy exists on the Board of Directors and the Corporate Governance/Nominating Committee does not perceive a need to increase the size of the Board of Directors. To avoid the unnecessary use of the Corporate Governance/Nominating Committee's resources, the Corporate Governance/Nominating Committee will consider only those director candidates recommended in accordance with the procedures set forth below.

**Procedures to be Followed by Stockholders.** To submit a recommendation of a director candidate to the Corporate Governance/Nominating Committee, a stockholder should submit the following information in writing, addressed to the Chairman of the Corporate Governance/Nominating Committee, care of the Corporate Secretary, at the main office of the Company:

1. The name of the person recommended as a director candidate;
2. All information relating to such person that is required to be disclosed in solicitations of proxies for election of directors pursuant to Regulation 14A under the Securities Exchange Act of 1934;
3. The written consent of the person being recommended as a director candidate to being named in the proxy statement as a nominee and to serving as a director if elected;

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4. As to the stockholder making the recommendation, the name and address of such stockholder as it appears on the Company's books; provided, however, that if the stockholder is not a registered holder of the Company's common stock, the stockholder should submit his or her name and address along with a current written statement from the record holder of the shares that reflects ownership of the Company's common stock; and

5. A statement disclosing whether such stockholder is acting with or on behalf of any other person and, if applicable, the identity of such person.



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In order for a director candidate to be considered for nomination at the Company's annual meeting of stockholders, the recommendation must be received by the Corporate Governance/Nominating Committee at least 120 calendar days before the date the Company's proxy statement was released to stockholders in connection with the previous year's annual meeting, advanced by one year.

## **Leadership Structure**

The President and Chief Executive Officer of the Company also serves as the Chairman of the Board of Directors of the Company, effective January 1, 2013. On that date, the Company appointed Mr. Bossidy, the former Chairman of the Board, as the Company's Lead Independent Director of the Board of Directors. Mr. Bossidy's responsibilities as Lead Independent Director of the Board include: (1) presiding at meetings of the Board at the invitation of the Chairman and at all meetings at which the Chairman is not present, including executive sessions of the non-management directors; (2) serving as a liaison between the independent directors of the Board and the Chairman; (3) developing agendas for Board and Board Committee meetings; (4) advising the Chairman of the Board as to the quality, quantity, and timeliness of the information submitted by the Company's management to the Board; and (5) assisting the Board and the Company's management with corporate governance issues.

The Board of Directors values independent board oversight as an essential component of corporate governance and believes that the creation of the new position of Lead Independent Director will further enhance the corporate governance of the Company. The Board believes that combining the Chairman and Chief Executive Officer positions is the best governance structure for the Company, particularly given the experience and performance of Mr. Daly during his tenure as President and Chief Executive Officer.

## **Capital Committee**

The Capital Committee assists the Board of Directors in planning for future capital needs. The Capital Committee is also responsible for ensuring compliance with regulations pertaining to capital structure and levels. In accordance with its charter, a majority of the directors serving on the Capital Committee must meet the definition of independent director under the listing requirements of The New York Stock Exchange. The committee presently has four directors and is chaired by Mr. Mahoney.

## **Risk Management Committee**

The Risk Management Committee assists the Board of Directors in: (1) overseeing management's program to limit or control the material business risks that confront the Company; and (2) approving policies and procedures designed to lead to an understanding of and to identify, control, monitor and measure the material business risks of the Company and its subsidiaries. These material business risks include, but are not limited to, credit risk, interest rate risk, liquidity risk, regulatory risk, legal risk, operational risk, strategic risk and reputation risk. The Risk Management Committee presently has four members and is chaired by Mr. Curley.

## **Board and Committee Meetings**

During 2012, the Board of Directors held 10 meetings. All of the current directors attended at least 75% of the total number of the board meetings and committee meetings held on which such directors served during 2012.

**Director Attendance at Annual Meeting of Stockholders**

The Board of Directors encourages each director to attend annual meetings of stockholders. All but four directors attended the 2012 annual meeting of stockholders.

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**Code of Business Conduct**

The Company has adopted a Code of Business Conduct that is designed to promote the highest standards of ethical conduct by the Company's directors, executive officers and employees. The Code of Business Conduct, which applies to all employees and directors, addresses conflicts of interest, the treatment of confidential information, general employee conduct and compliance with applicable laws, rules and regulations. In addition, the Code of Business Conduct is designed to deter wrongdoing and promote honest and ethical conduct, the avoidance of conflicts of interest, full and accurate disclosure and compliance with all applicable laws, rules and regulations. A copy of the Code of Business Conduct can be found in the Governance Documents portion of the Investor Relations section of the Company's website ([www.berkshirebank.com](http://www.berkshirebank.com)).

**Audit Committee Report**

The Company's management is responsible for the Company's internal controls and financial reporting process. The Company's independent registered public accounting firm is responsible for performing an independent audit of the Company's consolidated financial statements and issuing an opinion on the fair presentation of those financial statements in conformity with generally accepted accounting principles. The independent registered public accounting firm is also responsible for issuing an opinion on the Company's internal control over financial reporting based on criteria issued by the Committee on Sponsoring Organizations of the Treadway Commission. The Audit Committee oversees the Company's internal controls and financial reporting process on behalf of the Board of Directors.

In this context, the Audit Committee has met and held discussions with management and the independent registered public accounting firm. Management represented to the Audit Committee that the Company's consolidated financial statements were prepared in accordance with generally accepted accounting principles and provided its Report on Internal Control over Financial Reporting. The Audit Committee has reviewed and discussed the consolidated financial statements with management and the independent registered public accounting firm. The Audit Committee discussed with the independent registered public accounting firm matters required to be discussed by Statement on Auditing Standards No. 61 (Communication With Audit Committees), including the quality, not just the acceptability, of the accounting principles, the reasonableness of significant judgments and the clarity of the disclosures in the financial statements. The Audit Committee discussed with the Company's independent registered public accounting firm the overall scope and plans for its audit. The Audit Committee meets with the independent registered public accounting firm, with and without management present, to discuss the results of its examination, its evaluation of the Company's internal controls, and the overall quality of the Company's financial reporting.

In addition, the Audit Committee has received the written disclosures and the letter from the independent registered public accounting firm required by applicable requirements of the Public Company Accounting Oversight Board regarding the independent registered public accounting firm's communications with the Audit Committee concerning the independent registered public accounting firm's independence. In concluding that the registered public accounting firm is independent, the Audit Committee considered, among other factors, whether the non-audit services provided by the firm were compatible with its independence.

In performing all of these functions, the Audit Committee acts only in an oversight capacity. In its oversight role, the Audit Committee relies on the work and assurances of the Company's management, which has the primary responsibility for financial statements and reports, and of the independent registered public accounting firm that, in its report, expresses an opinion on the fairness and conformity of the Company's financial statements to generally accepted accounting principles. The Audit Committee's oversight does not provide it with an independent basis to determine that management has maintained appropriate accounting and financial reporting principles or policies, or appropriate internal controls and procedures designed to assure compliance with accounting standards and applicable laws and regulations.



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Furthermore, the Audit Committee's considerations and discussions with management and the independent registered public accounting firm do not assure that the Company's financial statements are presented fairly in accordance with generally accepted accounting principles, that the audit of the Company's financial statements has been carried out in accordance with generally accepted auditing standards or that the Company's independent registered public accounting firm is independent.

In reliance on the reviews and discussions referred to above, the Audit Committee recommended to the Board of Directors, and the Board has approved, that the audited consolidated financial statements be included in the Company's Annual Report on Form 10-K for the year ended December 31, 2012 for filing with the Securities and Exchange Commission. The Audit Committee also has approved, subject to stockholder ratification, the selection of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the fiscal year ending December 31, 2013.

**Audit Committee of the Board of Directors of  
Berkshire Hills Bancorp, Inc.**

Susan M. Hill, Chair

David E. Phelps

Barton D. Raser

D. Jeffrey Templeton

**Director Compensation**

The Company uses a combination of cash, restricted stock and stock options to attract and retain qualified candidates to serve on the Board. Equity compensation provides the opportunity to earn more based on the Company's total stockholder return and to align directors' interests with those of the Company's stockholders. The Corporate Governance/Nominating Committee reviews director compensation and benefits annually and makes recommendations to the Board. The following table provides the compensation received by individuals who served as non-employee directors (except for Mr. Curley who is the Chairman of the New York region of Berkshire Bank) of the Company during the 2012 fiscal year. This table excludes perquisites, which did not exceed \$10,000 in the aggregate for each director.

Name	Fees Earned or Paid in Cash (\$)	Stock Awards (\$) (1)	Option Awards (\$) (1)	All Other Compensation (\$) (2)	Total (\$)
Wallace W. Altes (3)				16,050	16,050
Geno Auriemma (4)	15,000	30,003			45,003
Lawrence A. Bossidy	57,000	30,012		986	87,998
Robert M. Curley (5)	52,000	80,018		149,097	281,115
John B. Davies	46,000	30,012		986	76,998
Rodney C. Dimock	46,000	30,012		986	76,998

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J. Williar Dunlaevy (6)	46,000	30,012	148,170	224,182
Susan M. Hill (7)	48,000	30,012	2,302	80,314
Cornelius D. Mahoney (8)	46,000	30,012	31,386	107,398
Catherine B. Miller (9)	46,000	30,012	986	76,998
David E. Phelps (10)	46,000	30,012	986	76,998
Barton D. Raser (11)	46,000	30,012	995	77,007
D. Jeffrey Templeton	46,000	30,012	986	76,998
Corydon L. Thurston (12)			16,050	16,050

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(1) Represents the grant date fair value of the restricted stock awarded under the Amended and Restated Berkshire Hills Bancorp, Inc. 2003 Equity Compensation Plan, and/or the 2011 Equity Incentive Plan. The grant date fair value of the restricted stock awards has been computed in accordance with the stock based accounting rules under FASB ASC Topic 718 (formerly FAS 123(R)). For Mr. Curley only, the stock award amount includes \$30,012 for his service as a director and \$50,006 for his service as Chairman of the New York region of Berkshire Bank. A discussion of the assumptions used in calculating the award values may be found at Note 19 to our consolidated financial statements in our Annual Report on Form 10-K for the year ended December 31, 2012. No option awards were granted to any director in 2012. As of December 31, 2012, each non-employee director and Mr. Curley had the following number of unvested shares of restricted stock and stock options outstanding:

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Name	Shares of Unvested Restricted Stock Held in Trust	Stock Options Outstanding
Geno Auriemma		
Lawrence A. Bossidy	2,542	12,005
Robert M. Curley	6,295	
John B. Davies	2,542	1,660
Rodney C. Dimock	2,542	
Susan M. Hill	2,542	
Cornelius D. Mahoney	2,542	15,000
David E. Phelps	2,542	
D. Jeffrey Templeton	2,542	1,660
J. Williar Dunlaevy	1,310	136,638
Barton D. Raser	1,310	

(2) Reflects the dollar value of dividends paid on stock awards.

(3) Mr. Altes retired from the Board on December 11, 2009, but by agreement continued to receive Board fees through May 2012, when his term otherwise would have expired.

(4) Mr. Auriemma became a non-employee director on May 10, 2012, and his 2012 compensation figures reflect compensation paid to Mr. Auriemma beginning with that date.

(5) The total amount included in All Other Compensation reflects Mr. Curley's salary in the amount of \$120,000 as Chairman of the New York region of Berkshire Bank, a cash bonus of \$25,000, dividends of \$497, and a non-elective 401(k) contribution of \$3,600.

(6) Mr. Dunlaevy was paid \$145,833 in 2012 pursuant to a non-competition and consulting agreement entered into with us, which was effective on July 21, 2011, and he recognized \$1,351 in imputed income on split dollar insurance.

(7) Ms. Hill recognized \$1,316 in imputed income on split dollar insurance.

(8) Mr. Mahoney recognized \$30,400 in imputed income on split dollar insurance.

(9) Ms. Miller retired from the Board of Directors on December 13, 2012 and her 2012 compensation figures reflect compensation paid to Ms. Miller through that date.

(10) Mr. Phelps has determined that he will not stand for re-election at the 2013 Annual Meeting of Stockholders.

(11) Mr. Raser recognized \$9 in imputed income on split dollar insurance.

(12) Mr. Thurston retired from the Board of Directors on August 18, 2011, but by agreement continued to receive Board fees through May 2012, when his term otherwise would have expired.

**Retainers for Non-Employee Directors.** The following table sets forth the applicable retainers that will be paid to our non-employee directors for their service on our Board of Directors during 2013.

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Annual Cash Retainer for Board Service	\$	30,000
Annual Cash Retainer for Lead Independent Director	\$	45,000
Annual Equity Retainer for Board Service	\$	30,000
Annual Retainer for Audit Committee Chair	\$	10,000
Annual Retainer for Risk Management Committee Chair	\$	6,000
Annual Retainer for Capital, Compensation, Governance/Nominating and Capital Committee Chair	\$	4,000
Annual Retainer for Attendance at Committee Meetings	\$	8,000
Annual Retainer for Attendance at Governance/Nominating Committee Meetings	\$	4,000

**Agreement with J. Williar Dunlaevy.** We entered into a Non-Competition and Consulting Agreement with Mr. J. Williar Dunlaevy effective July 21, 2011, which is the same date we acquired Legacy Bancorp, Inc. Under the agreement, Mr. Dunlaevy agreed to perform consulting services as a liaison to Legacy Banks Foundation for a period of twelve months. In addition, for a period of twenty-four months, Mr. Dunlaevy also agreed not to solicit or offer employment to any employee of Berkshire Hills or our subsidiaries. In exchange for the consulting services and the agreement not to compete or solicit, we agreed to pay Mr. Dunlaevy \$400,000, with \$150,000 paid on July 21, 2011 and \$250,000 payable in monthly installments over the twelve month consulting period.

**Agreement with Geno Auriemma.** We entered into an Endorsement Agreement with Mr. Geno Auriemma effective May 10, 2012. Under the agreement, Mr. Auriemma has agreed to serve as a marketing spokesman for Berkshire Bank for a period of four years. In exchange for his services, we have agreed to pay Mr. Auriemma \$120,000 annually for a term of four years.



Table of Contents**Stock Ownership**

The following table provides information as of March 14, 2013, with respect to persons known by the Company to be the beneficial owners of more than 5% of the Company's outstanding common stock. A person may be considered to own any shares of common stock over which he or she has, directly or indirectly, sole or shared voting or investing power. Percentages are based on 25,331,698 shares outstanding at March 14, 2013.

Name and Address	Number of Shares Owned	Percent of Common Stock Outstanding
Dimensional Fund Advisors LP Palisades West Building One 6300 Bee Cave Road Austin, Texas 78746	1,576,037(1)	6.2%
BlackRock, Inc. 40 East 52nd Street New York, New York 10022	1,469,712(2)	5.8%
The Vanguard Group 1000 Vanguard Blvd. Malvern, Pennsylvania 19355	1,296,600(3)	5.1%

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- (1) Based on information contained in a Schedule 13G/A filed with the U.S. Securities and Exchange Commission on February 11, 2013.
- (2) Based on information contained in a Schedule 13G/A filed with the U.S. Securities and Exchange Commission on February 8, 2013.
- (3) Based on information contained in a Schedule 13G filed with the U.S. Securities and Exchange Commission on February 13, 2013.

The following table provides information about the shares of Company common stock that are owned by each director or nominee for director of the Company, by the executive officers named in the Summary Compensation Table (the Named Executive Officers or the NEOs) and the aggregate number of shares owned by all directors, nominees for director and executive officers of the Company as a group as of March 14, 2013. A person may be considered to own any shares of common stock over which he or she has, directly or indirectly, sole or shared voting or investment power. Unless otherwise indicated, each of the named individuals has sole voting and investment power with respect to the shares shown and none of the shares shown have been pledged. The number of shares and options exercisable within 60 days owned by all directors and Named Executive Officers as a group totaled 2.8% of our outstanding common stock as of March 14, 2013. Each director and Named Executive Officer owned less than 1.0% of our outstanding common stock as of that date. Percentages are based on 25,331,698 shares outstanding at March 14, 2013.

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Name (8)	Number of Shares Owned (Excluding Options) (1)	Options Exercisable Within 60 Days	Total
<b>Directors</b>			
Geno Auriemma	8,945		8,945
Lawrence A. Bossidy	89,501(2)	495	89,996
Robert M. Curley	11,490		11,490
Michael P. Daly	109,640	6,000	115,640
John B. Davies	2,431	1,660	4,091
Rodney C. Dimock	13,418(3)		13,418
J. Williar Dunlaevy	71,419(4)	136,638	208,057
Susan M. Hill	24,296(5)		24,296
Cornelius D. Mahoney	33,786(6)	15,000	48,786
David E. Phelps (9)	10,246		10,246
Barton D. Raser	22,739(7)		22,739
D. Jeffrey Templeton	22,379	1,660	24,039
<b>Nominees for Director</b>			
Laurie Norton Moffatt (10)	131		131
<b>Named Executive Officers Who Are Not Directors</b>			
Kevin P. Riley	52,760		52,760
Sean A. Gray	18,942		18,942
Richard M. Marotta	17,558		17,558
Patrick J. Sullivan	39,987		39,987
All Executive Officers and Directors, as a Group (17 persons)	549,668	161,453	711,121

(1) This column includes the following:

Name	Shares of Granted but Unvested Restricted Stock Held In Trust	Shares Held In Trust in the Berkshire Bank 401(k) Plan
Mr. Auriemma	1,244	
Mr. Bossidy	2,431	
Mr. Curley	6,184	
Mr. Daly	13,208	19,790
Mr. Davies	2,431	
Mr. Dimock	2,431	
Ms. Hill	2,753	
Mr. Mahoney	2,431	
Mr. Phelps	2,431	
Mr. Templeton	2,431	
Mr. Raser	2,117	
Mr. Dunlaevy	2,117	
Mr. Riley	6,105	8,292
Mr. Gray	6,697	647
Mr. Marotta	6,770	
Mr. Sullivan	4,792	2,674

(2) Includes 69,518 shares held in a trust.

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- (3) Includes 3,400 shares held by an LLC.
- (4) Includes 8,457 shares held by Mr. Dunlaevy's spouse and 5,226 shares held in an employee stock ownership plan.
- (5) Includes 322 shares held by Ms. Hill's spouse's IRA.
- (6) Includes 31,355 shares pledged as security.
- (7) Includes 12,404 shares held by a company.
- (8) This table excludes John W. Altmeyer, who was appointed by the Board of Directors on March 18, 2013 to fill the vacancy created by Catherine B. Miller's retirement on December 13, 2012. Mr. Altmeyer's term expires at the 2014 Annual Meeting of Stockholders.
- (9) David E. Phelps has determined that he will not stand for re-election to the Board of Directors at the 2013 Annual Meeting of Stockholders.
- (10) Laurie Norton Moffatt is a director nominee to the Board of Directors with a proposed term to expire at the 2016 Annual Meeting of Stockholders.

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**Proposals to be Voted on by Stockholders**

**Proposal 1 Election of Directors**

The Company's Board of Directors currently consists of 13 members. The Board is divided into three classes, each with three-year staggered terms, with one-third of the directors elected each year. The nominees for election this year are John B. Davies, Rodney C. Dimock, Laurie Norton Moffatt, and J. Williar Dunlaevy, all of whom are current directors of the Company and the Bank except for Ms. Moffatt, who is a nominee. Mr. Phelps, whose term expires at the 2013 Annual Meeting of Stockholders, has determined that he will not stand for re-election to the Boards of Directors of the Company and the Bank. Accordingly, the Board of Directors of the Company, after due consideration of Ms. Moffatt's qualifications, experience and commitment to the community, has selected her as a nominee to the Board of Directors for a term to expire at the 2016 Annual Meeting of Stockholders.

In addition, on March 18, 2013 the Board of Directors appointed John W. Altmeyer to the Board of Directors for a term to expire at the 2014 Annual Meeting of Stockholders. Mr. Altmeyer was appointed to fill the vacancy created by Catherine B. Miller's retirement from the Board of Directors in December 2012.

It is intended that the proxies solicited by the Board of Directors will be voted for the election of the nominees named above. If any nominee is unable to serve, the persons named in the proxy card will vote your shares to approve the election of any substitute proposed by the Board of Directors. At this time, the Board of Directors knows of no reason why any nominee might be unable to serve. Except as indicated herein, there are no arrangements or understandings between the nominees and any other person pursuant to which such nominees were selected.

**The Board of Directors recommends a vote FOR the election of all nominees.**

Information regarding the nominees and the directors continuing in office is provided below. Unless otherwise stated, each individual has held his or her current occupation for the last five years. The age indicated in each nominee's biography is as of December 31, 2012. There are no family relationships among the directors or executive officers. The indicated period for service as a director includes service as a director of the Bank.

**Board Nominees for Terms Ending in 2016**

*John B. Davies* is a former Executive Vice President of Massachusetts Mutual Life Insurance and is currently an Agent Emeritus with Massachusetts Mutual providing high net worth counseling with a focus on tax efficiency and intergenerational transfers of wealth. Mr. Davies is a former director of Woronoco Bancorp, and provides the Board with knowledge and understanding of our Springfield and Central Massachusetts markets, as well as experience in financial institution management, and expertise in financial services including insurance and wealth management. Age 63. Director since 2005.

*Rodney C. Dimock* is a Principal at Arrow Capital, LLC, a private investing property development and consulting services company, located in West Granby, Connecticut. He was formerly President, Chief Operating Officer and a director of Cornerstone Properties, a \$4.8 billion office building real estate investment trust and before that he was President of Aetna Realty Investors, Inc., one of the country's largest real estate investment management advisors. Mr. Dimock provides experience in financial institution management, as well as experience and perspective on commercial real estate markets and the business climate and opportunities in Southern New England. Age 66. Director since 2006.

*Laurie Norton Moffatt* is a director nominee for election to the Board of Directors of the Company. She has served as Director and Chief Executive Officer of the Norman Rockwell Museum, Stockbridge, Massachusetts, from 1986 to the present. During her tenure, Ms. Moffatt has overseen the

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expansion of the museum's facilities and the creation of a scholars' research program. Her efforts resulted in the Museum receiving the National Humanities Medal, America's highest humanities honor. Ms. Moffatt is also an active community leader. She is a founder of Berkshire and Berkshire Creative Economy Council and serves as a trustee of Berkshire Health Systems. Ms. Moffatt also holds a business degree from the University of Massachusetts. Her management and marketing experience developing and expanding the Norman Rockwell Museum and her community involvement will serve the Board's efforts to continually enhance its business presence in the Berkshires and throughout the Company's business footprint. Age 56.

*J. Williar Dunlaevy* is the former Chief Executive Officer and Chairman of the Board of Legacy Bancorp, Inc. and Legacy Banks (collectively, Legacy). Mr. Dunlaevy served as the Chief Executive Officer and Chairman of the Board of Legacy since 1996, and he currently serves as the Chairman of the Berkshire Bank Foundation - Legacy Region, Inc. Mr. Dunlaevy's extensive banking experience and knowledge of local markets enhances the breadth of experience of the Board. Age 66. Director since 2011.

**Directors with Terms Ending in 2014**

*Michael P. Daly* is Chairman of the Board of Directors, President and Chief Executive Officer of the Company and the Bank. Before these appointments, Mr. Daly served as Executive Vice President and Senior Loan Officer of the Bank. He has been an employee of the Bank since 1986. Mr. Daly's extensive banking experience and knowledge of local markets enhances the breadth of experience of the Board of Directors. Age 51. Director since 2002.

*Susan M. Hill* is President of Hill & Thompson, P.C., a certified public accounting firm located in Manchester Center, Vermont. She served as a director of Factory Point Bancorp, Inc. and Factory Point National Bank of Manchester Center from 1992 until their acquisition by Berkshire Hills in September 2007. As an accountant, Ms. Hill provides knowledge and expertise to the Board in the areas of financial statement preparation and reporting, and serves as the Company's Audit Committee Financial Expert. Ms. Hill is designated as a Certified Financial Planner and adds value in the oversight of the Company's financial services and wealth management business. She also provides experience and perspective concerning operations in our Vermont region. Age 63. Director since 2007.

*Cornelius D. Mahoney* served as President, Chief Executive Officer and Chairman of the Board of Woronoco Bancorp and Woronoco Savings Bank before their merger with the Company and the Bank in June 2005. He is a former Chairman of America's Community Bankers and the Massachusetts Bankers Association and a former Director of the Federal Home Loan Bank of Boston. He was a member of the Thrift Institution Advisory Council to the Federal Reserve Board of Governors and is a past Chairman of the Board of Trustees at Westfield State College. Mr. Mahoney provides valuable experience and insight as a successful banking executive and nationally recognized industry contributor, as well as knowledge of and involvement with our Springfield region markets. Age 67. Director since 2005.

*John W. Altmeyer* has served as President and Chief Executive Officer of Carlisle Syntec, Inc., Carlisle, Pennsylvania, a roofing manufacturer, since 1997. Carlisle Syntec is a key segment of Carlisle Companies, a New York Stock Exchange listed company. He previously held several corporate positions at Carlisle Companies from 1987 to 1997, with a focus on business development. Mr. Altmeyer also served on the Boards of Directors of Beacon Federal Bancorp, Inc. and Beacon Federal from 1992 until their acquisition by the Company and the Bank. He was also employed by Carrier Corporation from 1981 to 1987. Mr. Altmeyer provides valuable experience from his management of a company connected to the construction industry, as well as his prior service as a director of a community bank. Age 53. Director since 2013.



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**Directors with Terms Ending in 2015**

*Lawrence A. Bossidy* held the positions of Chairman and Chief Executive Officer of Honeywell International, Inc. and before that he was Chairman and Chief Executive Officer of AlliedSignal. Before that, he held the positions of Chief Operating Officer of General Electric Credit, President of General Electric's Services and Materials Sector and Vice Chairman of General Electric. Mr. Bossidy has served as a member of the Boards of Directors of Merck & Co., Inc., JPMorgan Chase, and K&F Industries Holdings. Mr. Bossidy has authored two prominent books on business leadership and is nationally recognized and respected for his business success and contributions to corporate governance and to the arts of business execution and leadership development. Age 78. Director since 2002.

*Robert M. Curley* served as Chairman and President for Citizens Bank in New York from 2005 to 2009. Prior to joining Citizens, Mr. Curley served at Charter One Bank where he was President for New York and New England. During the period of 1976 to 1999, Mr. Curley was employed by KeyCorp., where he rose to the position of Vice Chairman of KeyBank N.A., and served as President and Chief Executive Officer of four subsidiary banks. Mr. Curley was hired by the Company and the Bank as Chairman of their New York bank and appointed as a non-independent director of the Company and the Bank in December 2009. He brings a wealth of knowledge to the Board concerning the banking industry in the Northeastern United States generally, and our New York Capital District region specifically, as well as the day-to-day management and oversight of a highly successful bank. Age 65. Director since 2009.

*Barton D. Raser* is the co-owner and Vice President of Carr Hardware, with its headquarters located in Pittsfield, Massachusetts. Mr. Raser has served in this capacity since 1990. Mr. Raser served as director of Legacy Bancorp, Inc. and Legacy Banks from 2001 to 2011, during which time he served on Legacy Bancorp's Audit Committee, Trust Committee and Governance and Nominating Committee and chaired Legacy Banks Credit/ALCO Committee. Mr. Raser enhances the Board with his knowledge of the Berkshire County economy and marketplace, as well as his experience with day to day management and oversight of a successful retail/wholesale business. Age 48. Director since 2011.

*D. Jeffrey Templeton* is the owner and President of The Mosher Company, Inc., located in Chicopee, Massachusetts, a manufacturer of buffing and polishing compounds, abrasive slurries and a distributor of related grinding, polishing and lapping machinery. Mr. Templeton is a former director of Woronoco Bancorp and provides experience and perspective as a successful business owner in our Springfield and Central Massachusetts markets. Age 71. Director since 2005.

*Geno Auriemma* has been head coach of the University of Connecticut women's basketball team since 1986. He is a seven-time national Coach-of-the-Year and has won or shared the BIG EAST Coach-of-the-Year award eight times. He has served as President of the Women's Basketball Coaches Association. He has also served as a director of The Connecticut Bank and Trust Company. A successful businessman and accomplished author and speaker, he is involved in numerous regional and state charitable and educational efforts and the national V Foundation for Cancer Research. Mr. Auriemma brings his skills in team building, organizational management and communication to Berkshire, as well as experience with the banking industry in Berkshire's Central Connecticut market, following the merger of The Connecticut Bank and Trust Company with Berkshire Bank on April 20, 2012. Age 59. Director since 2012.

**Proposal 2 Approval of the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan**



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The Board of Directors has approved for submission to stockholders for approval of the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan. The 2013 Equity Incentive Plan is designed to provide officers, employees and directors of Berkshire Hills and its subsidiaries, including Berkshire Bank, with incentives to promote the growth and performance of Berkshire Hills. The 2013 Equity Incentive Plan is

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subject to stockholder approval and will become effective upon its implementation by the Board of Directors subsequent to satisfaction of applicable stockholder approval requirements. Most of the companies that we compete with for directors and management-level employees are public companies that offer equity compensation as part of their overall director and officer compensation programs. The 2013 Equity Incentive Plan will give us the flexibility we need to continue to attract and retain highly qualified individuals by offering a competitive compensation program that is linked to the performance of our common stock.

The Company's stockholders approved the 2011 Equity Incentive Plan at the Company's 2011 Annual Meeting of Stockholders. The number of restricted stock awards that remain available to be granted under the Company's 2011 Equity Incentive Plan may not be sufficient to allow the Company to make equity awards consistent with past practices or to have sufficient equity awards available to recruit key employees. Consequently, in order for the Company to continue to offer equity awards to attract, maintain and retain highly qualified individuals, the Company has submitted the 2013 Equity Incentive Plan for stockholder approval.

**Effective Date and Duration of Plan**

The 2013 Equity Incentive Plan will become effective upon its implementation by the Board of Directors subsequent to satisfaction of applicable stockholder approval requirements. It is expected that the 2013 Equity Incentive Plan will give us the flexibility we need to make sufficient grants of restricted stock awards, incentive stock options, and non-qualified stock options for the next three to four years. Consequently, we do not currently anticipate the need to submit another equity incentive plan to stockholders for approval until 2016, although future circumstances may dictate the need to present an equity plan to stockholders for approval at an earlier time.

The 2013 Equity Incentive Plan will remain in effect as long as any awards under it are outstanding; however, no awards may be granted under the 2013 Equity Incentive Plan on or after the 10-year anniversary of the effective date of the 2013 Equity Incentive Plan. At any time, the Board of Directors may terminate the 2013 Equity Incentive Plan. However, any termination of the 2013 Equity Incentive Plan will not affect outstanding awards.

The following is a summary of the material features of the 2013 Equity Incentive Plan, which is qualified in its entirety by reference to the provisions of the 2013 Equity Incentive Plan, attached hereto as Appendix A.

**General**

Subject to permitted adjustments for certain corporate transactions, the 2013 Equity Incentive Plan authorizes the issuance or delivery to participants of up to 1,030,000 shares of Company common stock pursuant to grants of restricted stock awards, incentive stock options, and non-qualified stock options.

The 2013 Equity Incentive Plan will be administered by the members of Berkshire Hills's Compensation Committee who are each independent directors, as defined in the NYSE rules, and Disinterested Board Members, as defined in the 2013 Equity Incentive Plan (the Committee). The Committee has the authority and discretion within the limitations set forth in the 2013 Equity Incentive Plan to make all decisions and

determinations regarding the selection of participants and the granting of awards; establishing the terms and conditions relating to each award; adopting rules, regulations and guidelines for carrying out the 2013 Equity Incentive Plan's purposes; and interpreting and otherwise construing the 2013 Equity Incentive Plan. The 2013 Equity Incentive Plan also permits the Committee to delegate its responsibilities and powers to any one or more of its members or other persons, including one or more officers of Berkshire Hills, the power to: (i) designate officers and employees who will

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receive awards; and (ii) determine the number of awards to be received by them, provided that such delegation is not prohibited by applicable law or the rules of the stock exchange on which our common stock is traded. Awards intended to be performance-based under Section 162(m) of the Internal Revenue Code shall be granted by the Committee in order to be exempt from the \$1.0 million limit on deductible compensation for tax purposes.

The Committee may grant an award under the 2013 Equity Incentive Plan as an alternative to or replacement of an existing award under the 2013 Equity Incentive Plan or any other plan of Berkshire Hills or its subsidiaries, or as the form of payment for grants or rights earned or due under any other plan or arrangement of Berkshire Hills or its subsidiaries, including the plan of any entity acquired by Berkshire Hills or its subsidiaries.

The 2013 Equity Incentive Plan may be funded with authorized but unissued shares or with shares repurchased in open market transactions. Depending on market and financial conditions at the time of the establishment and implementation of the 2013 Equity Incentive Plan, we expect to fund awards under the 2013 Equity Incentive Plan with shares repurchased in open market transactions.

**Eligibility**

Employees and directors of Berkshire Hills and its subsidiaries, including Berkshire Bank, are eligible to receive awards under the 2013 Equity Incentive Plan, except that non-employees may not be granted incentive stock options.

**Types of Awards**

The Committee may determine the type and terms and conditions of awards under the 2013 Equity Incentive Plan, which shall be set forth in an award agreement delivered to each participant. Each award shall be subject to conditions established by the Committee that are set forth in the recipient's award agreement, and shall be subject to vesting conditions and restrictions as determined by the Committee. Awards may be granted in a combination of incentive and non-qualified stock options or restricted stock, as follows:

**Stock Options.** A stock option is the right to purchase shares of common stock at a specified price for a specified period of time. The exercise price may not be less than the fair market value of a share of our common stock on the date the stock option is granted. Fair market value for purposes of the 2013 Equity Incentive Plan means the final sales price of Berkshire Hills's common stock as reported on the New York Stock Exchange on the date in question, or if Berkshire Hills's common stock was not traded on such date, then on the day prior to such date or on the next preceding day on which Berkshire Hills's common stock was traded, and without regard to after-hours trading activity. The Committee will determine the fair market value of the common stock, in accordance with Section 422 of the Internal Revenue Code, if it cannot be determined in the manner described above. Further, the Committee may not grant a stock option with a term that is longer than 10 years.

Stock options are either incentive stock options or non-qualified stock options. Incentive stock options have certain tax advantages that are not available to non-qualified stock options, and must comply with the requirements of Section 422 of the Internal Revenue Code. Only employees are eligible to receive incentive stock options. Outside directors may only receive non-qualified stock options under the 2013 Equity Incentive

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Plan. Shares of common stock purchased upon the exercise of a stock option must be paid for at the time of exercise either (i) by personal, certified or cashiers check, (ii) by tendering stock of Berkshire Hills owned by the participant in satisfaction of the exercise price, or (iii) by a cashless exercise through a third party. The total number of shares that may be acquired upon the exercise of a stock option will be rounded down to the nearest whole share.

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**Restricted Stock.** A restricted stock award is a grant of common stock, subject to vesting requirements, to a participant for no consideration or such minimum consideration as may be required by applicable law or regulation. Restricted stock awards may be granted only in whole shares of common stock and are subject to vesting conditions and other restrictions established by the Committee as set forth in the 2013 Equity Incentive Plan or the award agreement. Prior to vesting of the restricted stock award, unless otherwise determined by the Committee, the recipient of a restricted stock award may exercise any voting rights with respect to common stock subject to an award; however, unless otherwise determined by the Committee, any dividends declared on shares of restricted stock shall be held by the Committee and distributed only when the underlying shares vest in the participant.

**Prohibition Against Repricing of Options.** The 2013 Equity Incentive Plan provides that neither the Committee nor the Board is authorized to make any adjustment or amendment that reduces or would have the effect of reducing the exercise price of a stock option previously granted.

**Limitation on Awards Under the 2013 Equity Incentive Plan**

The following limit applies to awards under the 2013 Equity Incentive Plan:

- The maximum number of shares of stock that may available for award as stock options and/or restricted stock is 1,030,000. Awards under the Plan may be made in any combination of shares of restricted stock or stock options and all awards may be granted as either restricted stock or stock options, in the discretion of the Committee, and all stock options may be granted as incentive stock options.
- The maximum number of shares of stock that may be subject to stock options granted to any employee in any calendar year shall be 150,000 shares.

To the extent any shares of stock covered by an award (including restricted stock awards) under the 2013 Equity Incentive Plan are not delivered to a participant or beneficiary for any reason, including because the award is forfeited or canceled or because a stock option is not exercised, then such shares shall not be deemed to have been delivered for purposes of determining the maximum number of shares of stock available for delivery under the 2013 Equity Incentive Plan. To the extent (i) a stock option is exercised by using an actual or constructive exchange of shares to pay the exercise price, (ii) shares of stock covered by an award are withheld to satisfy withholding taxes upon exercise or vesting of the award, or (iii) stock options are exercised by a net settlement of such stock options, then the number of shares of stock available shall be reduced by the gross number of stock options exercised rather than the net number of shares of stock issued.

In the event of a corporate transaction involving the stock of Berkshire Hills (including, without limitation, any stock dividend, stock split, extraordinary cash dividend, recapitalization, reorganization, merger, consolidation, spin-off, combination or exchange of shares), the foregoing share limitations and all outstanding awards will automatically be adjusted proportionally and uniformly to reflect such event to the extent that the adjustment will not affect the award's status as performance-based compensation under Section 162(m) of the Internal Revenue Code, if applicable; provided, however, that the Committee may adjust awards to preserve the benefits or potential benefits of the awards, including the prevention of automatic adjustments if appropriate.

**Performance Features**

**General.** A federal income tax deduction for Berkshire Hills is generally unavailable for annual compensation in excess of \$1.0 million paid to its chief executive officer and three other most highly compensated officers (other than its chief financial officer) named in the summary compensation table. However, amounts that constitute performance-based compensation (under Section 162(m) of the

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Internal Revenue Code) are not counted toward the \$1.0 million limit. The 2013 Equity Incentive Plan is designed so that stock options will be considered performance-based compensation. The Committee may designate whether any restricted stock awards granted to any participant are intended to be performance-based compensation. Any restricted stock awards designated as performance-based compensation will be conditioned on the achievement of one or more performance measures, to the extent required by Section 162(m) of the Internal Revenue Code.

**Performance Measures.** The performance measures that may be used for such awards will be based on any one or more of the following performance measures, as selected by the Committee: basic earnings per share; basic cash earnings per share; diluted earnings per share; core earnings per share; diluted cash earnings per share; net income; cash earnings; net interest income; non-interest income; general and administrative expense to average assets ratio; cash general and administrative expense to average assets ratio; efficiency ratio; cash efficiency ratio; return on average assets; core return on average assets; cash return on average assets; return on average stockholders' equity; cash return on average stockholders' equity; core return on stockholders' equity; return on average tangible stockholders' equity; cash return on average tangible stockholders' equity; core earnings; operating income; operating efficiency; core operating efficiency ratio; net interest margin; growth in assets, loans (including home equity lines of credit), or deposits; loan production volume; non-performing loans; cash flow; capital preservation (core or risk-based); interest rate risk exposure-net portfolio value; interest rate risk-sensitivity; liquidity parameters; strategic business objectives, consisting of one or more objectives based upon meeting specified cost targets, business expansion goals, and goals relating to acquisitions or divestitures, or goals relating to capital raising and capital management; stock price (including, but not limited to, growth measures and total shareholder return); operating expense as a percentage of average assets; core deposits as a percentage of total deposits; net charge-off percentage; average percentage past due; classified assets to total assets; compliance/audit exam findings; capital ratio; management achievement of strategic plan goals; system knowledge and utilization of core applications; customer service survey; or any combination of the foregoing. Performance measures may be based on the performance of Berkshire Hills as a whole or of any one or more subsidiaries or business units of Berkshire Hills or a subsidiary and may be measured relative to a peer group, an index or a business plan. The Committee may adjust performance measures after they have been set, but only to the extent the Committee exercises negative discretion as permitted under applicable law for purposes of an exception to Section 162(m) of the Internal Revenue Code. In establishing the performance measures, the Committee may provide for the inclusion or exclusion of certain items. Additionally, the grant of an award intended to be performance-based compensation and the establishment of any performance-based measures shall be made during the period required by Section 162(m) of the Internal Revenue Code.

**Vesting of Awards**

The Committee may specify vesting requirements on any award. If the vesting of an award under the 2013 Equity Incentive Plan is conditioned on the completion of a specified period of service with Berkshire Hills or its subsidiaries, without the achievement of performance measures or objectives, then the required period of service for full vesting shall be determined by the Committee and evidenced in an award agreement. Unless the Committee specifies otherwise, awards will vest at the rate of 20% per year, commencing one year after the date of grant, subject to acceleration of vesting in the event of death or disability. The Committee may determine that all stock options then held by a participant shall become fully exercisable (subject to expiration provisions otherwise applicable to such award) and all restricted stock awards, other than awards subject to performance-based vesting conditions, shall be fully earned and vested immediately. No award that is intended to be performance-based compensation under Code Section 162(m) shall accelerate vesting on retirement or other termination of service (other than due to death or disability). In the event of a participant's retirement, a performance-based award will vest pro-rata at the end of the performance period, based on the period of the participant's active employment and level of achievement of the performance measures, provided that the participant was employed for a minimum of one year during the performance period.



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**Change in Control**

Unless otherwise stated in an award agreement as determined by the Committee, upon the occurrence of a change in control of Berkshire Hills, all stock awards then held by a participant will become fully vested and all stock option awards shall become fully exercisable. For the purposes of the 2013 Equity Incentive Plan, a change in control occurs when: (a) an event that would be required to be reported in response to Item 5.01 of the current report on Form 8-K, pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934; (b) any person is or becomes the beneficial owner, directly or indirectly, of securities of Berkshire Hills representing 20% or more of the combined voting power of Berkshire Hills' then outstanding voting securities; (c) the Incumbent Directors (as defined in the 2013 Equity Incentive Plan) cease, for any reason, to constitute a majority of the Whole Board (as defined in the 2013 Equity Incentive Plan); or (d) a plan of reorganization, merger, consolidation or similar transaction involving Berkshire Hills and one or more other corporations or entities is consummated, other than a plan of reorganization, merger, consolidation or similar transaction that is defined in the 2013 Equity Incentive Plan as an Excluded Transaction, or the stockholders of Berkshire Hills approve a plan of complete liquidation of Berkshire Hills, or a sale, liquidation or other disposition of all or substantially all of the assets of Berkshire Hills or Berkshire Bank is consummated; or (e) a tender offer is made for 20% or more of the outstanding voting securities of Berkshire Hills and the stockholders owning beneficially or of record 20% or more of the outstanding voting securities of Berkshire Hills have tendered or offered to sell their shares pursuant to such tender offer and such tendered shares have been accepted by the tender offeror.

**Forfeiture**

The Committee may specify that rights and benefits with respect to any award may be subject to reduction, cancellation, forfeiture or recoupment upon the occurrence of certain events in addition to any otherwise applicable vesting or performance conditions. Such events include termination for cause; termination of service, violations of material policies; breach of noncompetition, confidentiality or other restrictive covenants; or any other conduct that is detrimental to Berkshire Hills' business or reputation, its affiliates and/or its subsidiaries.

If Berkshire Hills is required to prepare an accounting restatement due to the material noncompliance of Berkshire Hills, as a result of misconduct, with any financial reporting requirement under the securities laws, any participant who is subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002 or any similar securities laws shall reimburse Berkshire Hills the amount of any payment in settlement of an award earned or accrued during the twelve-month period following the first public issuance or filing with the Securities and Exchange Commission of the financial document embodying such financial reporting requirement. In addition, in the event of an accounting restatement, the Committee, in its sole and exclusive discretion, may require that any participant reimburse Berkshire Hills for all or any part of the amount of any payment in settlement of any award granted hereunder.

**Amendment and Termination**

The Board of Directors may, at any time, amend or terminate the 2013 Equity Incentive Plan or any award granted under the 2013 Equity Incentive Plan, provided that, except as provided in the 2013 Equity Incentive Plan, no amendment or termination may adversely impair the rights of an outstanding award without the participant's (or affected beneficiary's) written consent. The Board of Directors may not amend the provision of the 2013 Equity Incentive Plan related to repricing, materially increase the original number of securities that may be issued under the 2013 Equity Incentive Plan (other than as provided in the 2013 Equity Incentive Plan), materially increase the benefits accruing to a participant, or materially modify the requirements for participation in the 2013 Equity Incentive Plan, without approval of stockholders. Notwithstanding the foregoing, the Board may, without stockholder approval, amend the 2013 Equity Incentive Plan at any time, retroactively or otherwise, to ensure that the 2013 Equity



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Incentive Plan complies with current or future law and the Board of Directors may unilaterally amend the 2013 Equity Incentive Plan and any outstanding award, without participant consent, in order to maintain an exemption from, or to comply with, Section 409A of the Internal Revenue Code, and its applicable regulations and guidance.

**Federal Income Tax Considerations**

The following is a summary of the federal income tax consequences that may arise in conjunction with participation in the 2013 Equity Incentive Plan.

**Non-Qualified Stock Options.** The grant of a non-qualified option will not result in taxable income to the participant. Except as described below, the participant will realize ordinary income at the time of exercise in an amount equal to the excess of the fair market value of the shares acquired over the exercise price for those shares, and Berkshire Hills will be entitled to a corresponding deduction for tax purposes. Gains or losses realized by the participant upon disposition of such shares will be treated as capital gains and losses, with the basis in such shares equal to the fair market value of the shares at the time of exercise.

**Incentive Stock Options.** The grant of an incentive stock option will not result in taxable income to the participant. The exercise of an incentive stock option will not result in taxable income to the participant provided the participant was, without a break in service, an employee of Berkshire Hills or a subsidiary during the period beginning on the date of the grant of the option and ending on the date three months prior to the date of exercise (one year prior to the date of exercise if the participant is disabled, as that term is defined in the Internal Revenue Code).

The excess of the fair market value of the shares at the time of the exercise of an incentive stock option over the exercise price is an adjustment that is included in the calculation of the participant's alternative minimum taxable income for the tax year in which the incentive stock option is exercised. For purposes of determining the participant's alternative minimum tax liability for the year of disposition of the shares acquired pursuant to the incentive stock option exercise, the participant will have a basis in those shares equal to the fair market value of the shares at the time of exercise.

If the participant does not sell or otherwise dispose of the shares within two years from the date of the grant of the incentive stock option or within one year after the exercise of such stock option, then, upon disposition of such shares, any amount realized in excess of the exercise price will be taxed as a capital gain. A capital loss will be recognized to the extent that the amount realized is less than the exercise price.

If the foregoing holding period requirements are not met, the participant will generally realize ordinary income at the time of the disposition of the shares, in an amount equal to the lesser of (i) the excess of the fair market value of the shares on the date of exercise over the exercise price, or (ii) the excess, if any, of the amount realized upon disposition of the shares over the exercise price, and Berkshire Hills will be entitled to a corresponding deduction. If the amount realized exceeds the value of the shares on the date of exercise, any additional amount will be a capital gain. If the amount realized is less than the exercise price, the participant will recognize no income, and a capital loss will be recognized equal to the excess of the exercise price over the amount realized upon the disposition of the shares.

**Restricted Stock.** A participant who has been granted a restricted stock award will not realize taxable income at the time of grant, provided that that the stock subject to the award is not delivered at the time of grant, or if the stock is delivered, it is subject to restrictions that constitute a substantial risk of forfeiture for federal income tax purposes. Upon the later of delivery or vesting of shares subject to an award, the holder will realize ordinary income in an amount equal to the then fair market value of those shares and Berkshire Hills will be entitled to a corresponding deduction for tax purposes. Gains or losses

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realized by the participant upon disposition of such shares will be treated as capital gains and losses, with the basis in such shares equal to the fair market value of the shares at the time of delivery or vesting. Dividends paid to the holder during the restriction period, if so provided, will also be compensation income to the participant and Berkshire Hills will be entitled to a corresponding deduction for tax purposes. A participant who makes an election under Section 83(b) of the Internal Revenue Code will include the full fair market value of the restricted stock award in taxable income in the year of grant at the grant date fair market value.

**Withholding of Taxes.** Berkshire Hills may withhold amounts from participants to satisfy withholding tax requirements. Except as otherwise provided by the Committee, participants may have shares withheld from awards or may tender previously owned shares to Berkshire Hills to satisfy the minimum tax withholding requirements.

**Change in Control.** In the event of a change in control, outstanding unvested awards under the 2013 Equity Incentive Plan may be considered parachute payments that would cause an excess parachute payment under the Internal Revenue Code. An excess parachute payment may subject the participant to a 20% excise tax and preclude deduction by Berkshire Hills.

**Deduction Limits.** Section 162(m) of the Internal Revenue Code generally limits Berkshire Hills' ability to deduct for tax purposes compensation in excess of \$1.0 million per year for its chief executive officer and the three other most highly compensated executives (excluding the chief financial officer) named in the summary compensation table (covered employees). Restricted stock awards, other than performance-based restricted stock awards, and other awards that are not subject to performance goals may be subject to this deduction limit if income recognized on the awards plus other compensation of the executive that is subject to the limit exceed \$1.0 million. Qualified performance-based compensation is not subject to this limit and is fully deductible by Berkshire Hills. Qualified performance-based compensation is compensation that is subject to a number of requirements such as stockholder approval of possible performance goals, and objective quantification of those goals in advance. Stock options available for award under the 2013 Equity Incentive Plan will be considered qualified performance-based compensation even if such awards vest solely due to the passage of time during the performance of services. Accordingly, if an award is not exempt from Section 162(m), income recognized on such award by a covered employee will be subject to the \$1.0 million deduction limit on compensation.

In the case of performance-based awards granted to a covered employee that are not distributed until after the covered employee's retirement or other termination of employment, the \$1.0 million deduction limit will not apply and the award will be fully deductible. Performance awards may provide for accelerated vesting upon death, disability, or a change in control and still be considered exempt from the \$1.0 million deduction limit. The 2013 Equity Incentive Plan is designed so that stock options and performance-based restricted stock awards that are subject to performance goals may qualify as qualified performance-based compensation that is not subject to the \$1.0 million deduction limit. Berkshire Hills expects that the Committee will take these deduction limits into account in setting the size and the terms and conditions of awards. However, the Committee may decide to grant awards that result in executive compensation that exceeds the deduction limit.

**Tax Advice.** The preceding discussion is based on federal tax laws and regulations presently in effect, which are subject to change, and the discussion does not purport to be a complete description of the federal income tax aspects of the 2013 Equity Incentive Plan. A participant may also be subject to state and local taxes in connection with the grant of awards under the 2013 Equity Incentive Plan. Berkshire Hills suggests that participants consult with their individual tax advisors to determine the applicability of the tax rules to the awards granted to them in their personal circumstances.



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**Accounting Treatment**

Under Financial Accounting Standards Board Accounting Codification Standards Topic 718, Berkshire Hills is required to recognize compensation expense on its income statement over the requisite service period or performance period based on the grant date fair value of stock options and restricted stock.

**Awards to be Granted**

At the present time, no specific determination has been made as to the grant or allocation of awards under the 2013 Equity Incentive Plan.

**Required Vote**

In order to approve the 2013 Equity Incentive Plan, the proposal must receive the affirmative vote of a majority of the votes cast at the annual meeting.

**The Board of Directors recommends a vote FOR the approval of the 2013 Equity Incentive Plan.**

**Proposal 3 Advisory (Non-Binding) Vote on Executive Compensation**

In accordance with Section 14A of the Exchange Act, stockholders are being given the opportunity to vote on an advisory (non-binding) resolution at the Annual Meeting to approve our executive compensation, as described above under *Compensation Discussion and Analysis*, compensation tables and narrative discussion of Named Executive Officer compensation in this proxy statement. This proposal, commonly known as a "say-on-pay" proposal, gives stockholders the opportunity to endorse or not endorse the Company's executive pay program.

The purpose of our compensation policies and procedures is to attract and retain experienced, highly qualified executives critical to the Company's long-term success and enhancement of stockholder value. The Board of Directors believes the Company's compensation policies and procedures achieve this objective, and therefore recommend stockholders vote **FOR** the proposal.

**Resolved, that the compensation paid to the Company's Named Executive Officers, as disclosed in this proxy statement pursuant to Item 402 of Securities and Exchange Commission Regulation S-K, including the Compensation Discussion and Analysis, compensation tables and narrative discussion, is hereby approved.**

Is the Stockholder Vote Binding on the Company? This is an advisory vote only, and neither the Company nor the Board of Directors will be bound to take action based upon the outcome. The Compensation Committee will consider the vote of the stockholders when considering future executive compensation arrangements.

**The Board recommends that stockholders vote FOR this proposal.**

**Proposal 4 Ratification of the Independent Registered Public Accounting Firm**

The Audit Committee of the Board of Directors has appointed PricewaterhouseCoopers LLP to be the Company's independent registered public accounting firm for the 2013 fiscal year, subject to ratification by stockholders. On February 24, 2011, the Audit Committee dismissed Wolf & Company, P.C. ( Wolf ) as the Company's independent registered public accounting firm for the fiscal year ended December 31, 2011 and any quarterly periods therein. Such decision became effective upon completion by Wolf of its audit of consolidated financial statements of the Company for the year ended December 31,



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2010, the filing of the related Form 10-K, and the Company's annual filing with the U.S. Department of Housing and Urban Development. The decision to dismiss Wolf was approved by the Audit Committee.

The audit reports on the consolidated financial statements of the Company for the years ended December 31, 2010 and 2009 did not contain an adverse opinion or disclaimer of opinion, and were not qualified or modified, as to uncertainty, audit scope or accounting principles.

During the fiscal years ended December 31, 2010 and 2009 and the subsequent interim period through February 24, 2011, there were no: (1) disagreements with Wolf on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements, if not resolved to Wolf's satisfaction, would have caused Wolf to make reference to the subject matter of such disagreements in its reports, or (2) reportable events under Item 304(a)(1)(v) of Regulation S-K.

The Company requested that Wolf furnish it with a letter addressed to the Securities and Exchange Commission stating whether or not Wolf agreed with the above statements. A copy of Wolf's letter is provided as an Exhibit to our Form 8-K, filed with the Securities and Exchange Commission on March 1, 2011.

On February 24, 2011, the Company engaged PricewaterhouseCoopers LLP as the Company's new principal accountants for the fiscal year ending December 31, 2011. The engagement was approved by the Audit Committee of the Board of Directors of the Company. During the fiscal years ended December 31, 2010 and 2009, and the subsequent interim period prior to February 24, 2011, the Company did not consult with PricewaterhouseCoopers LLP regarding any of the matters or events set forth in Item 304(a)(2)(i) and (ii) of Regulation S-K.

A representative of PricewaterhouseCoopers LLP is expected to be present at the annual meeting to respond to appropriate questions from stockholders and will have the opportunity to make a statement should he or she desire to do so.

If the ratification of the appointment of the firm is not approved by a majority of the votes cast by stockholders at the annual meeting, other independent registered public accounting firms may be considered by the Audit Committee of the Board of Directors.

**The Board of Directors recommends a vote FOR the ratification of the appointment of PricewaterhouseCoopers LLP as the Company's independent registered public accounting firm for the 2013 fiscal year.**

**Audit Fees.** The following table sets forth the fees billed to the Company for the fiscal years ended December 31, 2012 and 2011, respectively, by PricewaterhouseCoopers LLP:

	2012	2011
Audit Fees(1)	\$ 1,562,474	\$ 886,609

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Audit-Related Fees(2)	\$	516,615	\$	482,704
Tax Fees(3)	\$		\$	97,795
All Other Fees	\$		\$	

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- (1) Includes fees for the financial statement and internal control over financial reporting audits and quarterly reviews.
- (2) Fees in 2012 relate to purchase accounting, systems conversion, employee benefit plans, and comfort letter issuance. Fees in 2011 relate to purchase accounting, systems conversion, tax credit limited partnership investments, employee benefit plan, and comfort letter issuance.
- (3) Consists of tax return preparation, and tax-related compliance and services. PricewaterhouseCoopers LLP did not perform any tax return preparation, or tax-related compliance and services, for the Company in 2012.

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**Policy on Audit Committee Pre-Approval of Audit and Permissible Non-Audit Services of the Independent Registered Public Accounting Firm**

The Audit Committee is responsible for appointing, setting compensation and overseeing the work of the independent registered public accounting firm. In accordance with its charter, the Audit Committee approves, in advance, all audit and permissible non-audit services to be performed by the independent registered public accounting firm. Such approval process ensures that the external auditor does not provide any non-audit services to the Company that are prohibited by law or regulation.

In addition, the Audit Committee has established a policy regarding pre-approval of all audit and permissible non-audit services provided by the independent registered public accounting firm. Requests for services by the independent registered public accounting firm must be specific as to the particular services to be provided for compliance with the auditor services policy.

The request may be made with respect to either specific services or a type of service for predictable or recurring services.

During the years ended December 31, 2012 and 2011, respectively, all services were approved, in advance, by the Audit Committee in compliance with these procedures.

**Compensation Discussion and Analysis**

This section explains how we compensate Named Executive Officers listed in the Summary Compensation Table that follows. The Named Executive Officers consist of the CEO and members of the executive team. Compensation for our executive team is determined by the Compensation Committee of the Board of Directors.

**Executive Summary**

The following section highlights our key performance results and pay considerations for our 2012 executive compensation program.

Berkshire made strong progress in 2012 in improving the strength of its franchise and in progressing towards our goal to become a top-performing financial institution. Our major achievements included:

- Produced strong organic growth in targeted loan and deposit products, with successful integration of the new Westborough commercial lending team, and the opening of four de novo branch offices in the Albany area market.

- Completed the acquisition of The Connecticut Bank and Trust Company, which added eight branch offices and expanded our presence into Connecticut.
- Completed the acquisition of Beacon Federal Bancorp, which added seven branch offices and expanded our presence into the Syracuse market.
- Recruited a mortgage banking team operating from eight offices in Eastern Massachusetts with a strong market position.
- Converted our core banking and related systems to new scalable technology intended to support product enrichment, service enhancement, targeted relationship management, and improved teamwork and efficiency.

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Our 2012 financial results demonstrate the benefits of our recent initiatives:

Metric	Growth	Comment
<b>Revenues</b>	39%	Annualized revenue reached nearly \$240 million in Q4
<b>Revenue per Share</b>	12%	Reached \$9.78 based on fourth quarter annualized
<b>Loans</b>	35%	46% increase in targeted commercial business loans
<b>Deposits</b>	32%	51% increase in targeted demand deposits
<b>Net Interest Margin</b>	0.05%	Increased to 3.62% from 3.57% in prior year
<b>Fee Income</b>	52%	Loan related fees grew to \$18 million from \$3 million

Berkshire's progress has brought us to a new level of capability, which we believe will enhance long-term shareholder value. Our assets now total more than \$5 billion, placing us among the 100 largest exchange traded banks and thrifts in the U.S. At this asset size, we believe we are well positioned to continue to target market share gains from national banks and to deliver products and efficiencies that are unavailable to smaller banks.

We further diversified our revenue streams and wallet share opportunities in 2012, including expanded mortgage banking, enhanced commercial products, reorganized small business lending, and our new MyBanker personalized retail service. Our franchise now extends from the Boston area to Syracuse, and from Hartford into Vermont. We are centrally located in our New England and Upstate New York footprint and can continue to explore market opportunities within this franchise and in all directions from our headquarters. Our diversified revenue streams provide multiple opportunities for the achievement of further earnings growth objectives in changing market conditions.

***Strong Pay and Performance Alignment***

Our compensation program is based on an overarching goal to reward our executives commensurate with the performance achieved and value delivered to our shareholders. We ensure this alignment by:

- Measuring our success through a balanced portfolio of performance metrics that reward corporate and individual success.
- Focusing a significant amount of executive compensation on variable/performance-based pay for both short and long-term.
- Placing significant emphasis on long-term equity incentive pay, in order to reinforce a sustained, multi-year view of performance and enhance the alignment of executives' goals with those of our shareholders.
- Providing a significant portion of our incentive compensation in equity based compensation to further align executive interests with those of our shareholders.



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The Board believes that its compensation practices successfully incent performance that creates shareholder value. In 2012, we performed well against all of our key incentive measures:

Metric	Results	Comment
<b>Core Earnings</b>	\$44.2 million	Record result; 60% increase over prior year
<b>Core Earnings per Share</b>	\$1.98	29% increase over prior year; sequential growth in every quarter
<b>Core Efficiency Ratio</b>	58.7%	Improved from 63.2% in 2011; positive operating leverage
<b>Core Return on Equity</b>	7.5%	Increased from 5.8% in 2011; reached 8.2% in Q4
<b>Criticized Assets Ratio</b>	45%	Includes 23% reduction in criticized assets before impact of bank acquisitions

Non-GAAP Incentive Performance Measures: Core earnings is defined as GAAP net income before the after-tax impact of non-core items including securities gains, merger related items, systems conversion costs, and discontinued operations identified in the statement of income. Core earnings per share is the result of dividing core earnings by average diluted shares. The core efficiency ratio is the efficiency ratio adjusted for non-core revenue and expense. The Company provides further detail on and discussion of these adjustments in its quarterly earnings releases filed with the SEC on Form 8-K. Core measures are intended to identify the recurring level of revenue, expense, and earnings. Merger related items in 2012 primarily arose from the acquisitions of The Connecticut Bank and Trust Company and Beacon Federal Bancorp, Inc. Merger related costs are recorded as current period expense under GAAP, while the Company views these costs as part of the overall economic investment for the acquisition of the merged banks. Other non-core items primarily consist of costs related to the Company's core systems conversion in 2012. The Board, in its acceptance of the financial statements, reviews and approves the classification of revenue and expense items as non-core. The Criticized Assets Ratio is the ratio of Criticized Assets to the sum of Tier 1 Capital and the Loan Loss Allowance. Criticized assets are those assets rated Special Mention or worse in Berkshire's risk rating system. Tier 1 Capital is a regulatory capital measure of Berkshire Bank. This ratio compares asset quality to capital as a measure of soundness.

*Creating Shareholder Value*

Our shareholders realized the following benefits from owning our shares in 2012:

- **10.9% Total Shareholder Return**
- **3.1% Dividend Yield**
- **6.0% Increase in Quarterly Dividend to 18 Cents**

Note: The dividend yield is based on the \$0.69 total per share dividend payments in 2012 divided by the \$22.54 average closing share price of our stock during the year. The dividend increase is based on the increase from \$0.17 to \$0.18 per share in the fourth quarter of 2012.

Our stock market capitalization recently exceeded \$600 million. Our outstanding shares increased by approximately 19% to 25 million in 2012, which we believe will provide greater liquidity in the markets for our stock. We transferred our stock listing to the New York Stock Exchange in 2012 to further enhance the visibility and recognition of our stock.

While our shareholders showed strong support (with approximately 84% voting in favor during last year's vote on executive pay), the Compensation Committee is committed to continuing to review and evolve programs and practices to ensure alignment with emerging best practices and regulatory guidelines.



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***2012 Compensation Program Highlights***

We develop our programs to attract, motivate and retain the talent necessary to help us achieve our objectives. Ultimately our compensation programs are designed to achieve overarching goals that motivate and reward performance, ensure sound risk management, and deliver long-term value to our shareholders. To achieve these objectives, the Compensation Committee regularly reviews and modifies our compensation and incentive programs to ensure they align with these core objectives. We assess our program from the perspective of our shareholders and regulators, considering best practices and making improvements as appropriate.

Highlights of Compensation Program and 2012 Results:

- Managed base salaries in a conservative manner while monitoring market competitiveness.
- Balanced incentive award opportunities approximately half as cash and half as stock based compensation, to reflect our desire to focus on annual business objectives while keeping a focus on long-term results and shareholder alignment.
- Funded a short term incentive pool at 136% of target based on exceeding all of our 2012 incentive goals (core earnings, efficiency ratio and criticized assets), and exceeding our strategic goals.
- Granted long-term incentives with 50% performance shares (vest based on 3 year performance results) and 50% time vesting shares, to provide balance between performance and retention.

**Role of the Compensation Committee, Management and Compensation Consultant**

***Role of the Compensation Committee.*** The Compensation Committee of the Board of Directors is responsible for discharging the Board's duties in executive compensation matters and for administering the Company's incentive and equity-based plans. The Committee oversees the development and implementation of the total compensation program for Berkshire's Named Executive Officers. Throughout the following discussion and analysis, we refer to the Compensation Committee as the Committee.

The Compensation Committee has the responsibility for establishing, implementing and continually monitoring adherence with our compensation philosophy. The Committee ensures that the total compensation paid to senior executives is fair, reasonable, performance-based and align with shareholder interests.

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Details on the Committee's functions are more fully described in its charter, which has been approved by the Board of Directors and is available on our website. To fulfill its charter and responsibilities, the Committee met throughout the year, meeting 7 times in 2012, and also may take action by written consent. The Chair of the Committee regularly reports on Committee actions at meetings of the Company's Board.

The Committee reviews all compensation components for the Company's Chief Executive Officer and other executive officers, including base salary, annual incentive, long-term incentives/equity, benefits and other perquisites. In addition to reviewing competitive market values, the Committee examines the total compensation mix, pay-for-performance relationship, and how all elements, in aggregate comprise the executive's total compensation package. The Committee also reviews the employment contract with the Chief Executive Officer and the Change in Control agreements with other executive officers.

The Committee reviews the Chief Executive Officer's performance annually and makes decisions regarding the Chief Executive Officer's compensation, including base salary, incentives and equity grants

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based on this review. Input and data from the Executive Vice President of Human Resources and outside consultants and advisors are provided as a matter of practice and as requested by the Committee to provide external reference and perspective. While the Chief Executive Officer makes recommendations on other Named Executive Officers, the Committee is ultimately responsible for approving compensation for all Named Executive Officers. The Compensation Committee reviews its decisions with the full Board of Directors.

The Committee has the authority and resources to obtain advice and assistance from internal or external legal, human resource, accounting or other advisors, or consultants as it deems desirable or appropriate.

***Role of the Compensation Consultant.*** The Committee has the sole authority to retain and terminate a compensation consultant and to approve the consultant's fees and all other terms of the engagement. The Committee has direct access to outside advisors and consultants throughout the year as they relate to executive compensation. The Committee has direct access to and meets periodically with the compensation consultant independently of management.

During 2012, the Committee retained the services of Pearl Meyer & Partners (PM&P or the Consultant), an independent outside consulting firm specializing in executive and board compensation, to assist the Committee. Services include conducting benchmarking studies, establishing compensation guidelines, designing incentive programs, assisting with proxy disclosure, and providing insight on emerging regulations and best practices. The Consultant reports directly to the Committee and carries out its responsibilities to the Committee in coordination with the Company's Human Resources Department, as requested by the Committee. The Committee has reviewed all services provided by the Consultant in 2012, and has determined that the Consultant is independent with respect to SEC standards as well as Company policy. The Committee also relied on Luse Gorman Pomerenk & Schick, P.C. for legal advice.

***Role of Management.*** Although the Committee makes independent determinations on all matters related to compensation of the Named Executive Officers, certain members of management may be requested to attend or provide input to the Committee. Input may be sought from the Chief Executive Officer, Executive Vice President Human Resources, Chief Financial Officer, Executive Vice President Risk Management or others to ensure the Committee has the information and perspective it needs to carry out its duties.

In particular, the Committee will seek input from the Chief Executive Officer on matters relating to strategic objectives, Company performance goals and input on his assessment of the Named Executive Officers. The Executive Vice President Human Resources often assists the Committee on matters of design, administration and operation of the Company's compensation programs. In some cases, the Committee delegates responsibilities to the Executive Vice President of Human Resources to assist in development of design considerations. The Executive Vice President of Human Resources may be requested, on the Committee's behalf, to work with their independent consultant to develop proposals for the Committee's consideration. The Executive Vice President of Human Resources reports to the Compensation Committee directly on such matters. The Committee also receives regular updates from the Company's Risk Officer and Chief Financial Officer throughout the year as appropriate.

Although executives may provide insight, suggestions or recommendations regarding executive compensation, they are not present during the Compensation Committee's deliberations or vote. Only Compensation Committee members vote on decisions regarding executive compensation. The Committee always meets in executive session without management present.



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**Compensation Philosophy & Pay Considerations**

*The overall principle guiding executive compensation at the Company is to reward executives commensurate with performance.*

The Committee believes that the success of our Company depends on our ability to attract and retain talented executives motivated to drive the Company's growth goals and deliver value to its stockholders. Our brand and culture is to be "America's Most Exciting Bank" and we seek the high performing talent needed to help us execute on our vision.

Performance is defined to reflect both short and long-term performance, and both our absolute performance goals and relative performance compared to the industry. We believe our balanced and holistic view of performance helps ensure we motivate the right behaviors and results that are in line with the long-term interests of our shareholders. We assess our success in measured steps but also take the broader, longer term view that is needed to ensure sustained success over many years. Our compensation management is performed within the context of our overall budgeting, planning and cost management programs.

As a result of our holistic/balanced perspective, our compensation reflects a combination of different reward elements, which work together to recognize multiple views and allow us to reward performance without overemphasizing any one element, one performance measure or one period of time.

In summary, we provide a total compensation program that is competitive, performance-oriented, shareholder aligned, balanced, and reflects sound risk management practices. We set specific aggressive performance goals that align with our strategy and support our annual plans, but also recognize the need to be responsive and flexible in today's challenging environment. We believe this approach also helps to ensure our program does not motivate our executives to take undue risks.

*How our Philosophy and Decisions Support our Objectives.*

The following table summarizes the key objectives of our total compensation program and how our program supports these goals.

Key Objectives	How Our Programs Support These Objectives
<b><u>Attract and retain</u></b> talented executives committed to our success.	<ul style="list-style-type: none"> <li>• Competitive base salaries allow us to attract and recognize executives for their role, expertise and contribution.</li> <li>• Competitive total compensation opportunities provide appropriate motivation to focus on our long-term success.</li> <li>• Annual incentives focus our executives on achieving our business plans.</li> </ul>

- Long-term equity incentives serve to retain our top talent and motivate them for long term success.

Provide **competitive compensation** appropriate for banks of similar size, complexity and performance.

- Total compensation guidelines are targeted to reflect the market defined as banks similar in size, region and business model to Berkshire.
- The Committee's independent consultant conducts comprehensive analysis that includes proxy and industry survey data and serves as a reference for defining base salary ranges and target short and long-term incentive opportunities.

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**Key Objectives**

**How Our Programs Support These Objectives**

<p><b>Motivate</b> executives to achieve <b>high standards of performance</b>.</p>	<ul style="list-style-type: none"> <li>• Variable/performance oriented compensation (i.e. short and long-term incentives) work together to reward Company financial and strategic objectives as well as individual performance and contributions.</li> <li>• Higher (i.e. above market) compensation results if performance exceeds our goals and industry peers; lower compensation (i.e. below market) will result if our performance falls below expectations.</li> </ul>
<p><b>Align</b> executive interests with those of our <b>shareholders</b></p>	<ul style="list-style-type: none"> <li>• Our executives are expected to meet stock ownership guidelines over time and hold stock throughout their tenure as executives.</li> <li>• A significant portion of executive compensation is in the form of stock and 50% of that is paid only upon achievement of multi-year performance goals.</li> <li>• The Compensation Committee reviews our programs and pay performance relationships on a regular basis.</li> <li>• The Compensation Committee reviews alignment between Chief Executive Officer pay and total shareholder return.</li> </ul>
<p>Provide a <b>balanced approach</b> that rewards both short-term and long-term results and <b>appropriate risk taking</b></p>	<p>Our total compensation program balances the following perspectives:</p> <ul style="list-style-type: none"> <li>• Providing a mix of fixed and variable/performance pay.</li> <li>• Measuring short and long-term performance.</li> <li>• Providing incentives in both cash and equity based compensation.</li> <li>• Considering our absolute and relative performance.</li> <li>• Measuring a mix of performance goals including earnings, returns and asset quality.</li> </ul> <p>The well-balanced approach seeks to enhance the pay-performance focus and also to mitigate risk taking by not placing significant focus on any one metric/perspective, but rather taking a holistic approach to total compensation.</p>

**Compensation Decision Process and Factors Considered**

The Committee's decisions throughout the year are supported by various analyses, information and input including, but not limited to:

- Competitive benchmarking reviews
- Total compensation philosophy and pay targets and guidelines

- Tally sheets
- Strategic plans and performance relative to annual budget
- Pay-performance alignment
- Individual performance
- Demonstration of behaviors that support America's Most Exciting Bank culture and brand
- External influences, economic conditions and industry factors
- Executive attraction and retention considerations
- Internal equity considerations
- Executive stock ownership levels
- Risk assessment considerations
- Best/emerging practices
- Director and Committee input
- Company's performance and stock price compared to peers and market indices



- Advisory shareholder vote and other relevant shareholder input

Further details on several of these analysis and factors are described in the following sections.

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**Competitive Benchmarking.** In the fall of each year, the compensation consultant conducts a review of its executive total compensation program. Our 2011 peer group was used to assess competitiveness of our 2010 decisions and provide market guidelines for 2012 pay programs. Our 2012 peer group was used to assess the effectiveness of our 2011 decisions, assess pay-performance alignment for 2011 and provide input for 2013 programs. The purpose of these reviews is to provide regular, independent, and objective analyses of all elements of compensation (individually and in the aggregate), relative to market and peer group practice. In addition to a competitive benchmarking, the consultant conducted several analyses assessing the pay-performance relationship to assist the Committee in monitoring longer-term effectiveness. The results of the competitive pay and performance assessment and recommendations conducted in 2011 were presented to the Committee in October and December to facilitate upcoming year-end decisions and to set target pay opportunities for the 2012 program.

A primary data source used in the competitive assessment for the Named Executive Officers is the information publicly disclosed by a peer group of other publicly traded banks. This peer group is developed by PM&P using objective parameters that reflect banks of similar asset size and located in the Northeast/Mid Atlantic region. The peer group excludes recent conversions and banks with different business models or those subject to mergers and acquisitions. The peer group is approved by the Compensation Committee. The peer group is reviewed annually and updated as appropriate, since the comparable banks may change depending on acquisitions, growth and/or business focus of Berkshire or our peer institutions. Overall, the goal is to have approximately 18-22 comparative banks that provide a market perspective for executive total compensation.

For the 2012 peer group, the selection criteria were expanded to position Berkshire approximately at median for asset size. As a result, three lower end asset range peer banks are excluded and two banks from Ohio are added to the 2012 peer group.

The following shows the 2011 and 2012 peer groups used by the Compensation Committee:

Brookline Bancorp, Inc.  
Community Bank System, Inc.  
Dime Community Bancshares, Inc.  
First Commonwealth Financial Corporation  
Flushing Financial Corporation  
Independent Bank Corp.  
National Penn Bancshares, Inc.  
NBT Bancorp Inc.  
Northwest Bancshares, Inc.  
Provident Financial Services, Inc.  
Provident New York Bancorp  
S&T Bancorp, Inc.  
Sandy Spring Bancorp, Inc.  
Tompkins Financial Corporation  
TrustCo Bank Corp NY  
WSFS Financial Corporation  
First Financial Bancorp.\*  
Park National Corporation\*  
Lakeland Bancorp, Inc.\*\*  
Sun Bancorp, Inc.\*\*  
Washington Trust Bancorp, Inc.\*\*

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\* New peer banks to 2012 peer group

\*\* 2011 peer banks excluded from the 2012 peer group

In addition to the peer group data, the consultant used several other sources of data to identify general compensation trends, including PM&P's Northeast Banking Compensation Survey Report as well as published industry surveys and a proprietary database of national banking compensation data. Data reflects banks representing similar asset size and region to the Company.

**Tally Sheets.** The Committee reviews tally sheets annually that summarize all elements of executive compensation and benefits. The tally sheets enable the Committee to see a snapshot of all compensation elements in a singular summary. Tally sheets are discussed annually with the full Board to ensure all members understand the components of executive compensation. While it is treated primarily for information and understanding, it is an additional view the Committee may consider in making

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compensation decisions or program changes in the future.

**Internal Equity.** The Committee receives feedback from the Chief Executive Officer related to key executive roles and relationships. In some cases, there is a goal to retain similar pay levels (e.g. to support a team approach) whereas, at other times there is a desire to provide differentiation to reflect unique roles, contribution, or performance. The Chief Executive Officer provides input to the Committee regularly so that such internal relationships can be reviewed and considered by the Committee in pay decisions. The Committee also reviews the relationship between the Chief Executive Officer and other senior executives. The goal is to ensure that relationships between executives appropriately reflect differences in roles and performance.

**Pay-Performance Analysis.** Ensuring and sustaining a proper pay-performance relationship is a key objective for the Compensation Committee. As such, the Compensation Committee's independent consultant conducts regular analyses to monitor pay-performance alignment, particularly with regards to the Chief Executive Officer. The goal is to use this information proactively to set appropriate pay opportunity ranges and retroactively to assess the actual pay delivered based on performance. During 2012, the consultant provided the following information/analyses to facilitate the Committee's ongoing review:

- **Actual pay delivered** the level of pay received/granted for the fiscal year (considers base salary, annual incentives and equity grants which represent potential value). Unlike the Summary Compensation Table, equity awards reflect the year of performance considered (e.g. 2013 equity grants based on FY 2012 performance). It reflects the Committee's intention and pay decisions for the year.
- **Total pay opportunity ranges** the target opportunities and potential compensation that could be received/granted based on the Company's total pay guidelines and minimum and stretch performance. This provides the Committee an advance view of the range of pay that might result under different performance scenarios.
- **Realizable pay** three year cumulative pay realized based on performance and stock price (considers base salary, actual bonus, current in the money value of stock options and current value of stock awards). This is compared to peers to determine relative alignment.
- **Performance** three year total shareholder return from 2009 - 2011 and other key financial metrics are reviewed and considered for Berkshire and peers.

**Best Practices.** The Committee regularly seeks education and information related to emerging best practices. Regular updates, presentations and information from the Committee's advisors and consultants were provided throughout the year. In addition, the Committee requests the Compensation Consultant to provide a formal education session annually to include input on best practices and emerging trends.

### **Compensation Components and 2012 Decisions**

The Company's compensation program consists of four main components: Base Salary, Annual Incentives, Long-Term Incentive/Equity, and Benefits and Perquisites. The following section summarizes the role of each component, how decisions are made and the resulting 2012 decision process as it relates to the Named Executive Officers.

**Base Salary**

***Purpose, Philosophy and Process.*** The Company believes the purpose of base salary is to provide competitive and fair base compensation that recognizes each executive's role, responsibilities, experience and performance. Base salary represents fixed compensation that is targeted to be competitive with the practices of comparable financial institutions in the region. Each year our compensation

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consultant, PM&P, provides pay range guidelines based on its competitive assessment considering a composite of market data from the custom proxy peer group as well as other data sources of banking compensation information. Our competitive range reflects a range around market median. The Committee uses this range in making ongoing base salary decisions for each executive.

In December of each year, the Committee reviews each executive's base pay to reflect competitive market conditions, individual experience, expertise, performance and contributions in preparation for January considerations. Input from the Chief Executive Officer is considered in setting the executive salaries while the Committee is solely responsible for determining the Chief Executive Officer's salary.

**2012 Decisions.** The Compensation Committee's review of executive salaries typically occurs in January of each year but does not necessarily always result in a base pay adjustment. The Committee considers the market range for the positions and relative salaries, as well as the financial and economic environment. In January 2012 upon review of market data, the Committee, with support of the CEO, elected not to increase salaries for its Named Executive Officers.

**Executive Incentive Plan Annual Incentives**

**Purpose, Philosophy and Process.** The primary objective of our Executive Incentive Plan is to motivate and reward executives for achieving specific Company, department and individual goals that support our strategic plan. Rewards under this plan represent compensation that must be earned each year based on Company and individual performance.

Company goals are defined each year and approved by the full Board. At the beginning of each year, the Chief Executive Officer proposes draft goals for the Company component of the incentive plan with the Compensation Committee. The Compensation Committee discusses the proposed Company goals with the Chief Executive Officer, incorporates appropriate modifications and once approved, reviews with the full Board.

The Committee then works with the Chief Executive Officer to jointly define his individual goals. The Chief Executive Officer develops individual goals for each executive based on the strategic plan/budget and reflective of his/her role.

Incentive award targets and ranges are reviewed and established annually by the Committee based on the consultant's market benchmarking analysis of similarly sized financial institutions and in line with our goal to provide a meaningful, but risk balanced, portion of total compensation that is based on annual results. For 2012, target incentive opportunities were 50% of base salary for the Chief Executive Officer and 35% for other Named Executive Officers. Actual payouts, however, are expected to vary each year based on a combination of Company and individual performance from 0% - 200% of target based on performance. (Annual incentives for Named Executive Officers represent approximately 20% - 25% of an executive's target total direct compensation).

**Funding of the Plan.** In order for the Plan to pay any awards, the Company must first achieve a trigger/gate level of performance. The gate for 2012 was defined at 75% of the budgeted core net income. Once the gate is achieved, the size of the incentive pool is determined based on

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Company performance relative to three goals: Core Earnings (50%), Expense Management (25%), and Asset quality (25%). Each goal has a weight and a defined range of acceptable performance (threshold, target and stretch). If threshold is achieved, 50% of the pool is funded for that metric. Target performance funds the pool at 100% and stretch performance funds at 130%. The Committee also considers the achievement of the Company's strategic plan/goals and can modify the pool +/- 15% based on their assessment of performance of these broader initiatives. In addition, the committee will consider and discuss overall risk and can adjust the pool downward to reflect any risk or regulatory issues. As a result, the Plan incentive

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pool can range from 50% to 150% of target (i.e. maximum of 130% + up to 15%) assuming the gate is met and performance achieves threshold levels. The objective is to ensure our incentive plan is funded appropriately based on profits and strategic results.

The funding determines the pool available to award incentives to all participants in the plan and is determined and approved by the Compensation Committee. In order to achieve the threshold related to earnings, management had to increase core net income by 37%. This translates into a 10% increase in core earnings per share. The following is a summary of the Company funding measures set at the beginning of the year:

**BERKSHIRE BANK 2012 CORPORATE SCORECARD DETERMINES INCENTIVE POOL FUNDING**

Performance Measure	Definition	Weight	Threshold (funds 50% of award/pool)	Target (funds 100% of award/pool)	Stretch (funds 130% of award/pool)
Core Earnings	Core Net Income	50%	\$37.9 million	\$42.1 million	\$46.3 million
Expense Management	Core Efficiency Ratio	25%	62.0%	60.0%	58.0%
Asset Quality	Criticized Assets (Tier 1 + ALLL)	25%	<54	<51	<48

Strategic Plan Goals: Compensation Committee assesses achievement of strategic plan and can modify pool +/- 15%. The Compensation Committee can also adjust the pool downward to reflect risk management considerations.

The measures above are non-GAAP Performance Measures, which were further described in an earlier section of the Compensation Discussion and Analysis

*Individual Awards:* Once the incentive pool is approved by the Committee, awards are then allocated based on each participant's individual performance and contributions toward the Company's strategic goals as well as their individual performance. This design is intended to provide a balance of team through the overall plan funding, but allows actual allocation of the awards to reflect individual contributions toward the Company's success.

*Process:* At the end of each year, the Chief Executive Officer oversees the allocation of incentives to executive officers and shares a summary of the proposed payouts with the Committee. For the Named Executive Officers, the Chief Executive Officer provides the Committee with a summary of each executive's performance and incentive recommendations based on their individual performance results relative to specific goals set at the start of the year. The Committee conducts a similar review of the Chief Executive Officer, which includes input concerning the Chief Executive Officer's performance from the Board of Directors, assessing individual goals and overall contributions for the year. The Committee determines the Chief Executive Officer award and approves the executive officer awards. The Compensation Committee retains the discretion to modify all forms of incentive payouts based on significant individual or Company performance shortfalls and/or regulatory and safety and soundness considerations. The Committee also has the discretion to make the award, or a portion of the award, payable in the form of equity, if desired, to facilitate executives' ownership guidelines.



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**2012 Decisions.** The Company exceeded its targeted performance for all three corporate scorecard metrics. Based on the weightings, this resulted in a funding of 118.5% of target. The Committee then considered achievements relative to key strategic initiatives and adjusted the funding 15% (out of the maximum of 15%) to bring the total pool to 136.3% (of a potential maximum of 150%).

The factors the Committee considered for the Strategic Accomplishment multiplier include the following:

- The Company successfully completed a company-wide core conversion, an important investment in infrastructure for future growth.

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- The Company's successful commercial expansion into Central/Eastern Massachusetts, with continuing improvement in portfolio diversification and the build out of commercial talent in Connecticut region.
- The Company strengthened overall talent throughout the organization.
- Continued focus on overall safety and soundness.
- In addition to the stronger profitability, capital ratios increased and asset quality improved across many measures.
- The Company continued to be very active with disciplined M&A opportunities, successfully completing two bank integrations and one mortgage company acquisition. Due to the acquisitions, market position and revenue sources were enhanced.
- Liquidity remained strong and the interest rate risk profile remained asset sensitive in order to protect future earnings from the impact of potential future interest rate increases.

These were all above and beyond the short term goals and all contribute importantly to future strategic results in the company.

Below is a summary of the specific 2012 results and funding for the management incentive plan:

Performance Measure	Weight	2012 Result	% Funding	Weighted Funding
Core Earnings	50%	\$44.2 million	115.1%	57.5%
Expense Management	25%	58.7%	113.8%	28.5%
Asset Quality	25%	44.5%	130.0%	32.5%
Pool Funding based on Corporate Measures				118.5%
Strategic Initiatives Implementation (Committee discretion of 15% out of 15%) The Compensation Committee can also adjust the pool downward to reflect risk management considerations.				136.3%

Once the Pool was funded, individual awards were determined for Named Executive Officers based on an assessment of individual performance. Individual awards can range from 50% to a maximum payout of 200% of their target. Actual awards ranged from 122% to 166% of target and reflect the combination of individual and corporate performance. Awards were granted by the Committee as indicated in the table below:

Named Executive Officers	Approved Award	Rationale
Chief Executive Officer		
Daly	\$ 375,000	Led achievement of corporate financial and strategic goals; continued growth with focused expense control; increased market share while successfully completing three highly profitable M&A deals; improved EPS and return on equity; successful core conversion to improve overall delivery to the customer.
Chief Financial Officer	\$ 150,000	

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Riley			Successful management of increasingly difficult purchase accounting methodologies and increased regulations; successful M&A due diligence/modeling and cost saves; financial systems conversion and upgrade; successful institutional debt placement to fund M&A and reduce cost of capital.
Executive Vice President			Successful outreach and recruitment of various commercial teams, driving discipline in commercial banking, transformation and overall portfolio diversification from dominantly commercial real estate to more C&I mix in the portfolio; exceeded objectives for fee based commercial product development and revenue generation; overall improvements and progression in the Wealth Management division.
Sullivan	\$	160,000	
Executive Vice President			Managed criticized and substandard assets with distinction with solid, talented team and risk management; exceeded goal for recoveries; successful M&A credit diligence and management; expanded project management responsibilities and led core systems conversion; implemented Six Sigma processes across
Marotta	\$	160,000	

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Named Executive Officers	Approved Award	Rationale
Executive Vice President		organization; built relationship with regulators.
Gray	\$ 160,000	Overall success of retail division; continued de novo branching; expanded operational and systems responsibilities; negotiated and closed profitable mortgage operations acquisition and profitable business expansion; leadership for delivery and execution of company brand and AMEB University; introduced new MyBanker retail service.

**Long-Term Incentive/Equity Compensation**

**Purpose, Philosophy and Process.** The Company's long-term/equity incentive program is designed to align executives with long-term interests of the Company and shareholders, provide reward for superior performance, encourage stock ownership and enhance our ability to retain our top performers.

Each year in January, executives are considered for long-term incentive awards. Awards are granted as part of the Company's 2011 Equity Incentive Plan. The Committee determines the form and amount of equity awards based on consideration of competitive market practice, Company performance and individual performance. The Compensation Committee is authorized, at its discretion, to grant equity compensation in proportion and upon such terms and conditions as the Committee may determine.

**2012 Plan Design and Awards.** Grants are allocated with the goal to provide competitive awards that provide a meaningful portion of total compensation in stock-based awards. The awards are intended to reward superior performance, provide retention of our key executives, balance compensation rewards with risk through long-term vesting tied to performance, and align executives with our stockholders.

For 2012, target equity grants were defined as 60% of base salary for the Chief Executive Officer and 40% of base salary for other Named Executive Officers.

For 2012, the long-term incentive plan had two award components:

- Performance Shares (50% of the total grant vests based on our 3-year performance)
- Restricted Stock (50% of the total grant vests incrementally over 3 years)

Restricted Stock awards are allocated based on a combination of company and individual performance and vest incrementally over three years. The objective of these awards is to reward performance, encourage ownership and help retain our key executives.

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The 2012 Performance Shares vest after three years (i.e. 2014) based on achievement of our long-term performance. Performance (and vesting) will be defined using a matrix allocating 50% for Core ROE growth and Average Core ROE compared to an industry index; and 50% cumulative CORE EPS (an internal goal). We use an industry index to represent an objective/external comparator with predefined criteria (exchange traded banks and thrifts between \$2 billion to \$12 billion in assets located in New England or Mid Atlantic regions, excluding MHCs). The Core EPS goal represents a cumulative three year goal that is set at the start of the performance period. This target is consistent with the Company's expectation to grow EPS greater than 10% per year. The Company focuses on measures of Core EPS and Core ROE which reflect underlying operating trends rather than GAAP measures which include non-recurring charges, particularly related to merger and acquisition activity. The Board requires satisfactory support for all non-core items recorded by management as part of its overall performance management review.

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The table below shows the matrix that will be used by the Committee after the performance period ends (1/1/12 – 1/31/2014) to determine vesting for the 2012 performance shares.

**2012 LONG TERM INCENTIVE PLAN MATRIX**

CORE ROE 50%		CORE ROE GROWTH					
		Below 25th percentile	26th percentile	50th percentile	51st percentile	75th percentile	Above 76th percentile
<b>AVERAGE CORE ROE</b>	Below 25th percentile	0%		0%		0%	0%
	26th – 50th percentile	0%		50%		75%	100%
	51st – 75th percentile	0%		75%		100%	125%
	Above 75th percentile	0%		100%		125%	150%
			CORE EPS				
			Threshold \$5.67		Target \$6.30		Stretch \$6.93
<b>CORE EPS (cumulative) 50%</b>	<b>Funding</b>	< Threshold	90% of EPS		100% EPS		110% EPS
		<b>0</b>	<b>50%</b>		<b>100%</b>		<b>150%</b>

Note: Core return on equity and core EPS are based on the non-GAAP measure of core earnings, which was further described in an earlier section in this Compensation Discussion and Analysis.

The 2012 grants awarded in January are summarized below and in our Grants of Plan Based Awards table herein.

**2012 Long-Term Awards Granted**

	Restricted Stock Award Value	Performance Shares Value	Total Value	Total Shares
Michael P. Daly	\$ 130,000	\$ 130,000	\$ 260,000	11,349
Kevin Riley	\$ 62,500	\$ 62,500	\$ 125,000	5,456
Patrick Sullivan	\$ 40,000	\$ 40,000	\$ 80,000	3,492
Sean Gray	\$ 65,000	\$ 65,000	\$ 130,000	5,675
Richard Marotta	\$ 87,500	\$ 87,500	\$ 135,000	5,893

Table of Contents**2010 Performance Shares Vesting Results**

2012 concludes the first performance grant with three year performance goals and cliff vesting based on results. The table below shows the performance matrix used by the Committee at the end of 2012 to determine vesting for the 2010 performance shares.

**2010 LONG TERM INCENTIVE PLAN MATRIX**

50%	Below 25th percentile	CORE ROE GROWTH				Above 76th percentile
		26th percentile	50th percentile	51st percentile	75th percentile	
<b>AVERAGE CORE ROE</b>	Below 25th percentile	0%	0%	0%	0%	
	26th 50th percentile	0%	50%	75%	100%	
	51st 75th percentile	0%	75%	100%	125%	
	Above 75th percentile	0%	100%	125%	150%	
		CORE EPS				
		Threshold	Target	Stretch		
		\$3.08	\$3.85	\$4.62		
	< Threshold	80% of EPS	100% EPS	120% EPS		
<b>CORE EPS (cumulative) 50%</b>	<b>Funding</b>	<b>0</b>	<b>50%</b>	<b>100%</b>	<b>150%</b>	

Over the three year period 2010 - 2012, the Company's Core ROE growth was in the top quartile of the comparator group described earlier. The Company's Average Core ROE was in the second quartile of this comparator group. This performance qualified for 100% funding of the Core ROE component of the performance incentive in accordance with the table above. The Company's cumulative Core EPS over the three year period 2010 - 2012 totaled \$4.52, which exceeded our target of \$3.85. Based upon result between target and stretch, the core EPS funding portion equated to 144.16%. Therefore, the combination of the two components for the long term incentive award was vested at 122.1% of target, and performance shares were granted in 2013 to the Named Executive Officers as follows:

**2010 Long Term Incentive Plan****3 Year Cliff Performance Vesting Based on Results**

Participants	Grant Date	Grant at Target (100%)	Cliff Vesting 3 year results (122.1%)
Daly	1/30/2010	7,250	8,853
Riley	1/30/2010	4,230	5,165
Marotta	1/30/2010	2,417	2,952
Gray	1/30/2010	3,021	3,689

*Standard practice fractional shares rounded to next whole share*

Mr. Sullivan is not included in the above chart since he commenced employment with us on July 21, 2011, which is after the grant date of the above awards.

**Benefits and Perquisites**

***Purpose, Philosophy and Process.*** The Company provides select executives with perquisites and other executive benefits that the Compensation Committee believes are reasonable and consistent with its overall compensation philosophy. The Compensation Committee reviews the Company's total benefits package on a regular basis to determine the competitiveness and appropriateness of providing executive benefits.



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The Company maintains a supplemental retirement arrangement with Mr. Daly that provides a benefit designed to restore benefits capped by Internal Revenue Service limits on qualified plans. All Named Executive Officers are eligible for modest perquisites such as automobile allowance, financial planning and country club dues.

In 2009, the Compensation Committee approved implementing a modest supplemental disability policy for Mr. Daly to provide replacement benefits consistent with the value provided to employees under the Company benefit plan but reduced due to benefits caps. Mr. Daly will receive additional disability coverage of \$15,000/month in addition to the Group Plan (which provides up to \$15,000/month for all other executives). The intent of this supplemental policy is to provide a similar benefit of approximately 60% of income in the event of a disability. This benefit level is consistent with the employee benefit replacement level.

**Potential Post Termination or Change in Control Benefits**

We recognize that an important consideration in our ability to attract and retain key personnel is our ability to minimize the impact on our management team of the possible disruption associated with our analysis of strategic opportunities. Accordingly, we believe that it is in the best interest of the Company and its shareholders to provide our Named Executive Officers with reasonable financial arrangements in the event of termination of employment following a change in control or involuntary termination of employment for reasons other than cause. Mr. Daly has an employment agreement and the other Named Executive Officers, Messrs. Riley, Sullivan, Marotta and Gray, each have a change in control agreement which provides for certain benefits in the event of voluntary or involuntary termination following a change in control. The Company no longer enters into change in control agreements that provide for a tax indemnification payment if the payments under the agreement result in additional tax liability under Section 280G of the Internal Revenue Code, as is the case with Mr. Marotta's and Mr. Sullivan's agreements. However, the agreements entered into with Messrs. Daly, Riley, and Gray were entered into before the Company made this change, and accordingly these agreements do provide for a tax indemnification payment in the event a payment triggers liability under Section 280G of the Internal Revenue Code. In addition, Mr. Daly's employment agreement contains provisions which provide for certain severance benefits in the event we terminate an executive's employment for reasons other than cause. These provisions along with the estimated severance payments for the executives are described in the *Potential Payments Upon Termination of Employment or a Change-In-Control* section of this proxy statement.

**Policies and Practices**

**Stock Practices and Policies**

**Stock Ownership Guidelines.** The Board of Directors believes that it is in the best interest of the Company and its stockholders to align the financial interests of Company executives and directors with those of stockholders. The Company maintains Stock Ownership Guidelines for its Section 16 Executives and Directors that require the following minimum investment in Company common stock:

Directors:	Four times (4x) the annual cash retainer
President and Chief Executive Officer:	Four and a half times (4.5x) the annual base salary
All Other Executives:	Two and a half times (2.5x) the annual base salary

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Shares that satisfy the stock ownership guidelines include Company stock owned outright and restricted stock whether or not vested. Stock options are not included in calculating ownership until they are converted into actual shares owned.

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Newly hired executives, directors and current employees of the Company who first become an executive or director are expected to satisfy the stock ownership guidelines within four years, or such other term approved by the Compensation Committee, from the date such individual first becomes an executive or director.

Executives and directors who maintain sufficient stock holdings, but due to an increase in base salary, annual cash retainer, selling Company stock to cover tax withholding or for a reason approved by the Compensation Committee, no longer meet the stock ownership guidelines, shall have eighteen months (18) to acquire additional Company stock and during this term such individuals will be deemed to satisfy the ownership guidelines.

Stock ownership for executives and directors is reviewed annually as part of the annual executive performance evaluation process and as part of the Board review. Share holdings are evaluated based on the average stock price for the three year period prior to the Board's review. These guidelines will allow for extenuating circumstances and discretion in the evaluation process. The Compensation Committee shall be responsible for the periodic review of the policy. Any changes to the policy will require the approval of the Board of Directors.

The Committee monitors executives' ownership annually. As of February 2013, our Chief Executive Officer and Chief Financial Officer were compliant with the Company's stock ownership guidelines. The other executives are progressing satisfactorily toward meeting their objectives within policy timeframe. Additionally, the directors are compliant with the Company's stock ownership guidelines.

**Option Granting Practices.** The Compensation Committee considers whether to make stock option grants and/or award other forms of equity during January of each year. However, grants may be made at other times during the year based on specific circumstances such as a new hire, a specific contractual commitment or a change in position or responsibility. Under our current plan, which was approved by stockholders in 2011, the exercise price of an option is the closing market price on the grant date. The grant date for grants determined by the Compensation Committee at its meeting in January is January 30. For other grants made during the year, the grant date is the first business day after the close of each quarter. The decision of the Compensation Committee to have the grants be effective on a uniform date in the future is designed to: (1) provide for administrative convenience for the Company to track the vesting and exercisability of its stock awards; and (2) prevent any appearance that the Committee is acting on a particular date to provide for a lower exercise price for stock options based on changes in the Company's market price.

As a general matter, the Compensation Committee's process is independent of any consideration of the timing of the release of material nonpublic information, including with respect to the determination of grant dates or the stock option exercise prices. The Compensation Committee's decisions are reviewed and ratified by the full Board of Directors. Similarly, the Company has never timed the release of material nonpublic information with the purpose or intent to affect the value of executive compensation.

**Clawback Policy.** In the event the Company or Berkshire Bank is required to prepare an accounting restatement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws as a result of misconduct (as determined by the members of the Board of Directors who are considered independent for purposes of the listing standards of the NYSE), each of the participants shall reimburse the Bank for part or the entire incentive award made to such executive officer on the basis of having met or exceeded specific targets for performance periods. For purposes of this policy, (i) the term incentive awards means awards under this Program, the amount of which is determined in whole or in part upon specific performance targets relating to the financial results of the Company; and (ii) the term participant means the CEO and his direct reports, who are eligible to participate in this Program.



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**Impact of Accounting and Tax on the Form of Compensation**

The Compensation Committee and Management consider the accounting and tax (individual and corporate) consequences of the compensation plans prior to making changes to the plans.

The Compensation Committee has considered the impact of the Financial Accounting Standards Board ASC Topic 718 on the Company's use of equity incentives as a key retention tool.

Section 162(m) of the Internal Revenue Code limits deduction of compensation paid to Named Executive Officers (other than the Chief Financial Officer) to \$1,000,000 unless the compensation is performance-based. Time-vested restricted stock awards granted under our Equity Incentive Plans generally would not qualify for the performance-based exception under Code Section 162(m).

**Compensation Committee Report**

The Compensation Committee has reviewed and discussed the Compensation Discussion and Analysis that is required by the rules established by the Securities and Exchange Commission. Based on such review and discussion, the Compensation Committee recommended to the Board of Directors that the Compensation Discussion and Analysis be included in this proxy statement.

**Risk Assessment and Related Considerations**

For 2012, a committee comprised of the Chief Financial Officer, Executive Vice President of Human Resources and Executive Vice President of Risk Management, performed an annual risk assessment of the Company's incentive compensation plans (the short-term and long-term incentive plans) for all employee levels within the Company. The objective of the review was to determine if the incentive compensation plans, at all employee levels, encouraged behaviors that exposed the Company to unacceptable levels of risk in relation to its business model. The review evaluated the balance of compensation elements between cash, performance shares, restricted stock grants, fixed versus variable compensation, and long-term versus short-term compensation. The review considered the level of potential cash incentive compensation as compared to base salary, the focus of individual and corporate goals, as well as the weighting, and balance of goals, and internal controls in place to mitigate possible high risk taking. Based upon the risk assessment, the Compensation Committee reviewed and concluded that the incentive compensation plans do not motivate improper risk taking, and are not reasonably likely to have a material adverse effect on the Company.

During 2012, the Committee reinforced our risk-based approach to total compensation in various ways, such as including the risk-based performance measure Asset Quality in our annual incentive plan and providing a risk adjustment feature that allows the Compensation Committee to reduce incentive awards in light of any risk features. An annual review of compensation plans is conducted to support sound risk management practices. Additionally, management maintains a clawback policy under which the Company may recover payments of incentive compensation attributable to incorrectly reported earnings.

The Compensation Committee remains committed to continuing to review and improve compensation plans and ensure they represent sound risk management practices.

**Compensation Committee of the Board of Directors of  
Berkshire Hills Bancorp, Inc.**

John B. Davies, Chair  
Lawrence A. Bossidy  
Rodney Dimock

Table of Contents**Executive Compensation****Summary Compensation Table**

The following table provides the total compensation for the Company's President and Chief Executive Officer, Chief Financial Officer and the four other most highly compensated executive officers for 2012, 2011 and 2010. These five officers are referred to as the Named Executive Officers in this proxy statement.

<b>Name and Principal Position</b>	<b>Year</b>	<b>Salary (\$)</b>	<b>Bonus (\$)</b>	<b>Stock Awards (\$ (1))</b>	<b>Option Awards (\$)</b>	<b>Non-Equity Incentive Plan Compensation (\$)</b>	<b>Change in Pension Value and Nonqualified Deferred Compensation Earnings (\$ (2))</b>	<b>All Other Compensation (\$ (3))</b>	<b>Total (\$)</b>
Michael P. Daly, Chairman, President and Chief Executive Officer	2012	525,000		260,006		375,000	299,909	58,339	1,518,254
	2011	492,308		250,014		320,000	222,208	62,075	1,346,605
	2010	475,000		300,000		350,000	104,584	56,156	1,285,740
Kevin P. Riley Executive Vice President, Chief Financial Officer and Treasurer	2012	300,000		125,020		150,000		40,682	615,702
	2011	300,000		150,004		130,000		42,930	622,934
	2010	300,000		175,000		140,000		44,267	659,267
Sean A. Gray Executive Vice President, Retail Banking	2012	275,000		130,014		160,000		37,369	602,383
	2011	258,654		150,004		135,000		33,561	577,219
	2010	250,000		125,000		130,000		34,807	539,807
Richard M. Marotta Executive Vice President, Chief Risk Officer	2012	300,000		135,009		160,000		39,289	634,298
	2011	267,308		150,004		140,000		33,522	590,834
	2010	250,000	200,000(4)	250,000		125,000		12,096	837,096
Patrick Sullivan Executive Vice President, Commercial Banking and Wealth Management	2012	375,000		80,002		160,000		36,264	651,266
	2011	158,654(5)	200,000(4)	109,600		75,000		24,724	567,978

(1) Represents the grant date fair value of the restricted stock award computed in accordance with the stock based accounting rules under FASB ASC Topic 718. A discussion of the methods used in calculating the award values may be found at Note 19 to our consolidated financial statements in our Annual Report on Form 10-K for the year ended December 31, 2012. For those restricted stock awards that are subject to performance conditions, the grant date fair values are based upon the outcome of such conditions at the target level. The breakdown of amounts reported for each individual is as follows:





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Grant Date	Stock Price	Number of Restricted Stock Awards Granted				
		Daly	Riley	Gray	Marotta	Sullivan
January 30, 2012	\$ 22.91	11,349	5,457	5,675	5,893	3,492
January 30, 2011	21.22	11,782	7,069	7,069	7,069	
July 29, 2011	21.92					5,000
January 30, 2010	16.55	18,127	10,575	7,553	15,107	

(2) Reflects change in pension value only.

(3) Details of the amounts reported in the All Other Compensation column for 2012 are provided in the table below.

Name	401(k) Employer Contribution	Restricted Stock Dividends	Car Allowance	Gas Card	Financial Planning	Club Dues	LTD	Total
M. Daly	17,500	9,390	7,269	1,823	15,000		7,357*	58,339
K. Riley	17,500	4,870	12,000			5,460	852	40,682
S. Gray	17,500	4,774	12,000			2,243	852	37,369
R. Marotta	17,500	8,187	12,000		750		852	39,289
P. Sullivan	17,500		12,000			5,912	852	36,264

\* Mr. Daly's long-term disability represents \$582 for long term disability insurance, \$4,984 for supplemental disability insurance, and \$1,791 as a tax gross-up payment on these amounts.

(4) Reflects the amount of the sign on bonus.

(5) Mr. Sullivan commenced employment with us on July 21, 2011, the effective date of the merger of Legacy Bancorp, Inc. with the Company. Mr. Sullivan's 2011 compensation figures reflect compensation paid to Mr. Sullivan beginning on July 21, 2011, and Mr. Sullivan's annual base salary for 2011 was \$375,000.

Table of Contents**Grants of Plan-Based Awards Table**

The following table provides information concerning all awards granted to the Company's Named Executive Officers in 2012:

**Grants of Plan-Based Awards**

Name	Grant Date	Estimated Future Payouts Under Non-Equity Incentive Plan Awards			Estimated Future Payouts Under Equity Incentive Plan Awards			All Other Stock Awards: Number of Shares of Stock or Units (#)	Grant Date Fair Value of Stock and Option Awards (1)
		Threshold (\$)	Target (\$)	Maximum (\$)	Threshold (#)	Target (#)	Maximum (#)		
Michael P. Daly Chairman, President and Chief Executive Officer	1/30/2012	157,500	315,000	472,500					
	1/30/2012				2,838	5,675	8,513		\$ 130,014
Kevin P. Riley Executive Vice President, Chief Financial Officer and Treasurer	1/30/2012	52,500	105,000	157,500					
	1/30/2012				1,365	2,729	4,094		\$ 62,521
Sean A. Gray Executive Vice President, Retail Banking	1/30/2012	48,125	96,250	144,375					
	1/30/2012				1,419	2,838	4,257		\$ 65,019
Richard M. Marotta Executive Vice President, Chief Risk Officer	1/30/2012	52,500	105,000	157,500					
	1/30/2012				1,474	2,947	4,421		\$ 67,516
Patrick J. Sullivan Executive Vice President, Commercial Banking and Wealth Management	1/30/2012	65,625	131,250	196,875					
	1/30/2012				873	1,746	2,619		\$ 40,001
	1/30/2012							1,746	\$ 40,001

(1) Grant date fair value of estimated future payout under equity incentive plan award is based on performance at the target level. Grant date fair value has been computed in accordance with the stock based accounting rules under FASB ASC Topic 718.



Table of Contents**Employment Agreement**

The Company and the Bank entered into a single employment agreement with Mr. Daly in 2008, with a term of three years. The three-year term extends daily unless the Board of Directors or Mr. Daly gives the other party written notice of non-renewal. The employment agreement provides for a base salary which is reviewed at least annually. Mr. Daly's current base salary is \$575,000. In addition to the base salary, the employment agreement provides for, among other things, participation in stock and employee benefit plans and fringe benefits applicable to executive personnel. See *Potential Payments Upon Termination of Employment or a Change-In-Control* for a discussion of the benefits and payments Mr. Daly may receive upon his termination of employment.

**Change in Control and Severance Agreements**

The Company and the Bank maintain change in control agreements with each of Messrs. Riley, Gray, Marotta and Sullivan. Each change in control agreement has a term of three years and is renewable annually for an additional year at the sole discretion of the Boards of Directors of the Bank and the Company. In addition, the Company and Bank entered into a severance agreement with Mr. Sullivan. See *Potential Payments Upon Termination of Employment or a Change-In-Control* for a discussion of the benefits and payments Messrs. Riley, Gray, Marotta and Sullivan may receive upon their termination of employment.

**Outstanding Equity Awards at December 31, 2012**

The following table provides information concerning unexercised stock options and stock awards that have not vested for each Named Executive Officer as of December 31, 2012.

Name	Option Awards				Stock Awards	
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)
Michael P. Daly	41,481		\$ 22.30	1/30/2013	32,042(1)	\$ 764,522
	6,000		\$ 37.80	1/30/2014		
Kevin P. Riley					17,693(2)	\$ 422,155
Sean A. Gray					16,097(3)	\$ 384,074
Richard M. Marotta					15,409(4)	\$ 367,659
Patrick J. Sullivan					3,492(5)	\$ 83,319

(1) This number represents restricted stock awards subject to time-based and performance-based vesting requirements. The shares of restricted stock subject to time-based vesting become vested at the annual rate of 33.3% of the total original grant amount, with 7,481 shares vesting on January 30, 2013, 3,855 shares vesting on January 30, 2014 and 1,891 shares vesting on January 30, 2015. The shares of performance-based restricted stock vest upon the achievement of performance goals, as measured over a three-year period, and the satisfaction of a three-year service requirement, with 7,250 shares vesting on January 30, 2013, 5,891 shares vesting on January 30, 2014 and 5,675 shares vesting on January 30, 2015, assuming performance conditions are satisfied at the target level.

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(2) This number represents restricted stock awards subject to time-based and performance-based vesting requirements. The shares of restricted stock subject to time-based vesting become vested at the annual rate of 33.3% of the total original grant amount, with 4,203 shares vesting on January 30, 2013, 2,087 shares vesting on January 30, 2014 and 909 shares vesting on January 30, 2015. The shares of performance-based restricted stock vest upon the achievement of performance goals, as measured over a three-year period, and the satisfaction of a three-year service requirement, with 4,230 shares vesting on January 30, 2013, 3,535 shares vesting on January 30, 2014 and 2,729 shares vesting on January 30, 2015, assuming performance conditions are satisfied at the target level.

(3) This number represents restricted stock awards subject to time-based and performance-based vesting requirements. The shares of restricted stock subject to time-based vesting become vested at the annual rate of 33.3% of the total original grant amount, with 3,634 shares vesting on January 30, 2013, 2,124 shares vesting on January 30, 2014 and 945 shares vesting on January 30, 2015. The shares of performance-based restricted stock vest upon the achievement of performance goals, as measured over a three-year period, and the satisfaction of a three-year service requirement, with 3,021 shares vesting on January 30, 2013, 3,535 shares vesting on January 30, 2014 and 2,838 shares vesting on January 30, 2015, assuming performance conditions are satisfied at the target level.

(4) This number represents restricted stock awards subject to time-based and performance-based vesting requirements. The shares of restricted stock subject to time-based vesting become vested at the annual rate of 33.3% of the total original grant amount, with 3,368 shares vesting on January 30, 2013, 2,160 shares vesting on January 30, 2014 and 982 shares vesting on January 30, 2015. The shares of performance-based restricted stock vest upon the achievement of performance goals, as measured over a three-year period, and the satisfaction of a three-year service requirement, with 2,417 shares vesting on January 30, 2013, 3,535 shares vesting on January 30, 2014 and 2,947 shares vesting on January 30, 2015, assuming performance conditions are satisfied at the target level.

(5) This number represents restricted stock awards subject to time-based and performance-based vesting requirements. The shares of restricted stock subject to time-based vesting become vested at the annual rate of 33.3% of the total original grant amount, with 582 shares vesting on January 30, 2013, 582 shares vesting on January 30, 2014 and 582 shares vesting on January 30, 2015. The shares of performance-based restricted stock vest upon the achievement of performance goals, as measured over a three-year period, and the satisfaction of a three-year service requirement, with 1,746 shares vesting on January 30, 2015, assuming performance conditions are satisfied at the target level.

**Option Exercises and Stock Vesting**

The following table provides information concerning stock option exercises and the vesting of stock awards for each Named Executive Officer, on an aggregate basis, during 2012.

Name	Option Awards		Stock Awards	
	Number of Shares Acquired on Exercise (#)	Value Realized on Exercise (\$)	Number of Shares Acquired on Vesting (#)	Value Realized on Vesting (\$)
Michael P. Daly			7,361	\$ 168,641
Kevin P. Riley			4,001	\$ 91,663
Sean A. Gray			3,751	\$ 85,935
Richard M. Marotta			6,919	\$ 158,514
Patrick J. Sullivan	15,662	120,284	5,000	\$ 111,550



Table of Contents**Pension Benefits**

The following table provides the present value of accumulated benefits payable to Mr. Daly and includes the number of years of service credited to him under the Supplemental Executive Retirement Plan.

Name	Plan Name	Number of Years Credit Service	Present Value of Accumulated Benefit (\$)
Michael P. Daly	Berkshire Bank Supplemental Executive Retirement Plan	27	\$ 2,189,210(1)

(1) The material assumptions used to calculate the accumulated benefit were: the 1994 Group Annuity Mortality Reserve Table for post-retirement mortality; no pre-retirement mortality; and a 6.0% discount rate pre- and post-retirement.

The Bank maintains a supplemental retirement arrangement with Mr. Daly to provide him with an annual retirement benefit following separation from service (other than for cause) on or after attaining age 62. The normal retirement benefit equals 46.6% of Mr. Daly's average total salary and bonus paid during any three consecutive completed calendar years preceding termination of employment that produce the highest annual benefit. If Mr. Daly separates from service on or after age 55 for reasons other than death, disability or following a change in control, he would receive an early retirement benefit based on the annual retirement benefit described above, reduced by 5% for each year by which his age at termination is less than age 62.

**Potential Payments Upon Termination of Employment or a Change-in-Control**

The following tables show potential payments that would be made to the Named Executive Officers upon specified events, assuming such events occurred on December 31, 2012, pursuant to each individual's employment or change in control agreement, equity awards, and other benefit plans or arrangements under the various circumstances presented.

The following table provides the estimated amount of compensation payable to Mr. Daly for each of the termination events listed below.

	Termination For Cause	Termination Without Cause	Payments Due Upon Change in Control With Termination of Employment	Disability	Death
Base Salary	\$	\$	\$	\$	\$ 262,500
Bonuses					
Health and welfare benefits				49,168	10,977

Severance payments and benefits:



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Base salary and bonuses	2,850,000	2,977,332		
401(k) contribution	52,500	52,500		
Health and welfare benefits	51,409	73,752		
Other fringe benefits	72,276	74,832		
Value of acceleration of unvested equity awards	765,522	765,522	765,522	765,522
Payment under SERP		4,356,724	4,356,724	4,356,724
Section 280G tax gross-up		3,298,626		

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The following table provides the estimated amount of compensation payable to Messrs. Riley, Gray, Marotta and Sullivan upon their termination of employment in connection with a change in control.

	Mr. Riley	Mr. Gray	Mr. Marotta	Mr. Sullivan
Severance payments and benefits:				
Annual compensation	\$ 1,397,954	\$ 1,073,109	\$ 1,463,031	\$ 1,445,955
Health and welfare benefits	73,473	73,752	64,458	73,752
Value of acceleration of unvested equity awards	422,155	384,074	367,659	83,319
Section 280G tax gross-up	535,521	427,378		

**Payments Made Upon Termination for Cause.** If Mr. Daly is terminated for cause (as defined under his employment agreement), he will receive his base salary, through the date of termination and retain the rights to any vested benefits subject to the terms of the plan or agreement under which those benefits are provided.

**Payments Made Upon Termination without Cause or for Good Reason.** If the Company or the Bank chooses to terminate Mr. Daly's employment for reasons other than for cause, or if he resigns from the Company or the Bank under specified circumstances that would constitute constructive termination, Mr. Daly (or, upon his death, his beneficiary) would be entitled to receive an amount equal to the remaining base salary and incentive compensation payments, including amounts related to stock-based compensation, due for the remaining term of the employment agreement and the contributions that would have been made on his behalf to any employee benefit plans of the Company and the Bank during the remaining term of the employment agreement. The Company and the Bank would also continue and/or pay for life, medical, health, dental and disability coverage for Mr. Daly and his covered dependents until the earliest of his death, employment with another employer or the end of the remaining term of the employment agreement, with Mr. Daly responsible for the employee share of premiums. Upon termination of Mr. Daly's employment under these circumstances, Mr. Daly must adhere to a one-year non-competition, as well as a non-disclosure restriction.

**Payments Made Upon Disability.** If Mr. Daly becomes disabled and begins to receive benefits under the long-term disability insurance policy maintained by the Bank, Mr. Daly will also receive continued medical and life insurance coverage for two years following his termination of employment. Commencing in 2008, Berkshire Bank assisted Mr. Daly in purchasing a supplemental disability policy owned by Mr. Daly. In the event of his disability, Mr. Daly will receive compensation under the long-term disability policy maintained by the Bank and the supplemental policy owned by Mr. Daly.

Under his supplemental retirement arrangement with the Bank, if Mr. Daly separates from service due to disability, he will receive the normal retirement benefit, regardless of his age at the time of separation from service. Mr. Daly has elected to receive his normal or early retirement benefit in the form of an actuarially equivalent lump sum payment. The agreement provides that benefit payments will commence not later than 60 days following Mr. Daly's separation from service.

Upon termination due to disability, outstanding stock options granted pursuant to our equity incentive plans automatically vest and remain exercisable until the earlier of one year from the date of termination due to disability or the expiration date of the stock options. Restricted stock awards granted to these officers under the plan also vest in full upon termination due to disability.

***Payments Made Upon Death.*** Under his employment agreement, in the event of Mr. Daly's death, his estate is entitled to receive his base salary for an additional six months. Additionally, his dependents' medical coverage will be paid for six months.

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Under his supplemental retirement arrangement with the Bank, if Mr. Daly dies while employed by the Bank, his estate will receive the normal retirement benefit, regardless of his age at the time of death. Mr. Daly has elected to receive his normal or early retirement benefit in the form of an actuarially equivalent lump sum payment. The agreement provides that benefit payments will commence not later than 60 days following Mr. Daly's separation from service.

Upon termination due to death, outstanding stock options granted pursuant to our equity plans automatically vest and remain exercisable until the earlier of one year from the date of death or the expiration date of the stock options. Restricted stock awards granted to these officers under the plan also vest in full upon death.

**Payments Made Upon a Change in Control.** Under Mr. Daly's employment agreement, if voluntary termination (upon circumstances discussed in the agreement) or involuntary termination follows a change in control of the Company or the Bank, Mr. Daly (or, upon his death, his beneficiary) would be entitled to a severance payment equal to the greater of: (1) the payments and benefits due for the remaining term of the agreement; or (2) three times the average of his annual compensation (as described in the agreement) for the five preceding taxable years. In addition, for a period of 36 months following a change in control, Mr. Daly (and his dependents (if any)) would be entitled to continued life, non-taxable medical and disability coverage substantially identical to the coverage received before the change in control. Mr. Daly's change in control benefits also include the use of any club membership or automobile or other perquisite that was in place at the time of the change in control through the remaining term of the agreement and will be entitled to purchase the perquisite at the end of the term. Mr. Daly's employment agreement also provides that upon his termination of employment following a change in control, Mr. Daly will be entitled to the employer contributions he would have received under the 401(k) plan had he continued his employment for the remaining term of his agreement. Mr. Daly would also be entitled to receive a tax indemnification payment from the Company if payments under the employment agreement triggers liability under Section 280G of the Internal Revenue Code for the excise tax applicable to excess parachute payments. Under applicable law, the excise tax is triggered by change in control-related payments that equal or exceed a base amount that is three times the executive's average taxable income over the five years preceding the change in control ( "280G Limit"). The excise tax equals 20% of the amount of the payment in excess of the executive's base amount.

Under his supplemental retirement arrangement with the Bank, if Mr. Daly separates from service following a change in control, he will receive the normal retirement benefit, regardless of his age at the time of separation from service. Upon termination in connection with a change in control, Mr. Daly will receive the payment in a lump sum benefit. The agreement provides that benefit payments will commence not later than ten days following the change in control; provided, however, that if Mr. Daly is a specified employee (as defined in Section 409A of the Internal Revenue Code), the benefit will not commence until six months after his separation from service.

Messrs. Riley, Gray, Marotta and Sullivan have entered into change in control agreements with the Company and the Bank. The change in control agreements provide that if involuntary termination, other than for cause, or voluntary termination (upon the occurrence of circumstances specified in the agreements) follows a change in control of the Company or the Bank, the executive would be entitled to a cash severance payment and continued health benefits. If the executive's employment is terminated following a change in control, the executive would be entitled to a cash severance payment equal to three times his average annual compensation for the five years preceding the change in control, and life insurance and non-taxable medical, dental and disability coverage substantially identical to the coverage maintained for the executive prior to his termination of employment for 36 months following his termination of employment. Messrs. Riley and Gray would also be entitled to receive a tax indemnification payment if payments under the change in control agreements trigger liability under

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Section 280G of the Internal Revenue Code for the excise tax applicable to excess parachute payments. Messrs. Marotta and Sullivan's severance payments would be reduced by the minimum amount necessary to avoid triggering liability under Section 280G of the Internal Revenue Code. In addition, each executive must comply with a one-year non-competition and non-disclosure provision following their receipt of severance payments under the agreements.

Mr. Sullivan entered into a severance agreement with the Company and the Bank. The agreement provides that upon an involuntary termination of employment, other than for cause, or voluntary termination of employment under certain circumstances, Mr. Sullivan would be entitled to a cash severance payment equal to three times his base salary less a pro rata amount for each day employed since July 21, 2011, and continued medical and dental coverage, at no cost to Mr. Sullivan for 36 months following his termination of employment. In the event of Mr. Sullivan's termination of employment in connection with or following a change in control of the Company, Mr. Sullivan would not be entitled to any benefits under the severance agreement and instead would be entitled to benefits under his change in control agreement. If Mr. Sullivan was entitled to a benefit under the severance agreement as of December 31, 2012, the amount of the severance payment would be \$582,534.

In the event of a change in control of the Company or the Bank, outstanding stock options granted pursuant to our equity plans automatically vest and, if the option holder is terminated other than for cause within 12 months of the change in control, options granted under our 2001 Stock-Based Incentive Plan and 2003 Equity Compensation Plan will remain exercisable until the expiration date of the stock options. Restricted stock awards granted to these officers under the plan also vest in full upon a change in control. The value of the accelerated options and restricted stock grants counts towards each executive's 280G Limit.

**Other Information Relating to Directors and Executive Officers**

**Section 16(a) Beneficial Ownership Reporting Compliance**

Section 16(a) of the Securities Exchange Act of 1934 requires the Company's executive officers and directors, and persons who own more than 10% of any registered class of the Company's equity securities, to file reports of ownership and changes in ownership with the Securities and Exchange Commission. These individuals are required by regulation to furnish the Company with copies of all Section 16(a) reports they file.

Based solely on its review of the copies of the reports it has received and written representations provided to the Company from the individuals required to file the reports, the Company believes that each of its executive officers and directors has complied with applicable reporting requirements for transactions in Company common stock during the fiscal year ended December 31, 2012.

**Transactions with Related Persons**

The Sarbanes-Oxley Act of 2002 generally prohibits loans by the Company to its executive officers and directors. However, the Sarbanes-Oxley Act contains a specific exemption from such prohibition for loans by the Bank to its executive officers and directors in compliance with federal banking regulations. Federal regulations require that all loans or extensions of credit to executive officers and directors of insured financial institutions must be made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable

transactions with other persons and must not involve more than the normal risk of repayment or present other unfavorable features. The Bank is therefore generally prohibited from making any new loans or extensions of credit to executive officers and directors at different rates or terms than those offered to the general public. Notwithstanding

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this rule, federal regulations permit the Bank to make loans to executive officers and directors at reduced interest rates if the loan is made under a benefit program generally available to all other employees and does not give preference to any executive officer or director over any other employee.

Pursuant to the Company's Audit Committee Charter, the Audit Committee periodically reviews, no less frequently than quarterly, a summary of the Company's transactions with directors and executive officers of the Company and with firms that employ directors, as well as any other related person transactions, for the purpose of recommending to the disinterested members of the Board of Directors that the transactions are fair, reasonable and within Company policy and should be ratified and approved. For the 2012 fiscal year, the Company was not engaged in any transactions with related persons of a type or in such amount that was required to be disclosed pursuant to applicable Securities and Exchange Commission rules and regulations.

Also, in accordance with banking regulations, the Board of Directors reviews all loans made to a director or executive officer in an amount that, when aggregated with the amount of all other loans to such person and his or her related interests, exceeds \$500,000 and such loan must be approved in advance by a majority of the disinterested members of the Board of Directors. Additionally, pursuant to the Company's Code of Ethics and Business Conduct, all executive officers and directors of the Company must disclose any existing or emerging conflicts of interest to the Company's General Counsel. Such potential conflicts of interest include, but are not limited to, the following: (i) the Company conducting business with or competing against an organization in which a family member of an executive officer or director has an ownership or employment interest and (ii) the ownership of more than 1% of the outstanding securities or 5% of total assets of any business entity that does business with or is in competition with the Company.

**Procedures Governing Related Persons Transactions**

We maintain Procedures Governing Related Person Transactions, which are a written set of procedures for the review and approval of transactions involving related persons. Under these procedures, related persons consist of directors, director nominees, executive officers, persons or entities known to us to be the beneficial owner of more than 5% of any outstanding class of the voting securities of the Company or immediate family members or certain affiliated entities of any of the foregoing persons.

Transactions covered by the procedures consist of any financial transaction, arrangement or relationship or series of similar transactions, arrangements or relationships, in which:

- the aggregate amount involved will or may be expected to exceed \$120,000 in any calendar year;
- the Company is, will, or may be expected to be a participant; and
- any related person has or will have a direct or indirect material interest.

The procedures exclude certain transactions, including:

- any compensation paid to an executive officer of the Company if such compensation is disclosed according to the proxy rules of the Securities and Exchange Commission or the Compensation Committee of the Board approved (or recommended that the Board approve) such compensation;



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- any compensation paid to a director of the Company if such compensation is disclosed according to the proxy rules of the Securities and Exchange Commission;
  
- any transaction with a related person involving the extension of credit provided in the ordinary course of the Company's business and on substantially the same terms as those prevailing at the time for comparable services provided to unrelated third parties. However, loans on nonaccrual status or that are past due, restructured or potential problem loans are not considered excluded transactions;
  
- any transaction with a related person in which the amounts due from the related person are for purchases of goods and services subject to usual trade terms, for ordinary business travel and expense payments and for other transactions in the ordinary course of business;
  
- any transaction with a related person in which the rates or charges involved are determined by competitive bids;
  
- any transaction with a related person involving services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture or similar services;
  
- any transaction with a related person involving the rendering of services as a common or contract carrier or public utility, at rates or charges fixed in conformity with law or governmental authority; and
  
- any transaction in which the interest of the related person arises solely from the ownership of a class of equity securities and all holders of that class of equity securities received the same benefit on a pro rata basis.

Related person transactions will be reviewed by the Audit Committee. In connection with its review, the Audit Committee will consider all relevant factors, including:

- whether the terms of the proposed transaction are at least as favorable to the Company as those that might be achieved with an unaffiliated third party;
  
- the size of the transaction and the amount of consideration payable to the related person;

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- the nature of the interest of the related person;
- whether the transaction may involve a conflict of interest as defined in the Company's Code of Business Conduct; and
- whether the transaction involves the provision of goods and services to the Company that are available from unaffiliated third parties.

For each periodic review of related persons transactions, the Audit Committee will determine if the transactions were fair, reasonable, and within Company policy and will recommend to the disinterested members of the Board of Directors that they should be ratified and approved or make such other recommendation to the Board of Directors as the Audit Committee deems appropriate. If any transaction recommended for ratification and approval by the Audit Committee is not ratified and approved by the Board of Directors, the Secretary of the Audit Committee will provide a report to the Audit Committee setting forth information about the Board's actions.

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**Submission of Business Proposals and Stockholder Nominations**

The Company must receive proposals that stockholders seek to include in the proxy statement for the Company's next annual meeting no later than December 3, 2013. If next year's annual meeting is held on a date more than 30 calendar days from May 9, 2014, a stockholder proposal must be received by a reasonable time before the Company begins to print and mail its proxy solicitation for such annual meeting. Any stockholder proposals will be subject to the requirements of the proxy rules adopted by the Securities and Exchange Commission.

The Company's bylaws provide that, in order for a stockholder to make nominations for the election of directors or proposals for business to be brought before the annual meeting, a stockholder must deliver notice of such nominations and/or proposals to the Corporate Secretary not less than 90 days before the date of the annual meeting. However, if less than 100 days' notice or prior public disclosure of the date of the annual meeting is given to stockholders, such notice must be received not later than the close of business of the tenth day following the day on which notice of the date of the annual meeting was mailed to stockholders or prior public disclosure of the meeting date was made. A copy of the bylaws may be obtained from the Company.

**Stockholder Communications**

The Company encourages stockholder communications to the Board of Directors and/or individual directors. All communications from stockholders should be addressed to Berkshire Hills Bancorp, Inc., 24 North Street, P.O. Box 1308, Pittsfield, Massachusetts 01202. Communications to the Board of Directors should be in the care of Wm. Gordon Prescott, Corporate Secretary. Communications to individual directors should be sent to such directors at the Company's address. Stockholders who wish to communicate with a committee of the Board should send their communications to the care of the Chair of the particular committee, with a copy to Lawrence A. Bossidy, the Company's Lead Independent Director. The Corporate Governance/Nominating Committee determines, in its discretion, whether any communication sent to the full Board should be brought before the full Board.

**Miscellaneous**

The Company will reimburse brokerage firms and other custodians, nominees and fiduciaries for reasonable expenses incurred by them in sending proxy materials to the beneficial owners of the Company. Additionally, directors, officers and other employees of the Company may solicit proxies personally or by telephone. None of these persons will receive additional compensation for these activities.

The Company's Annual Report to Stockholders has been included with this proxy statement. Any stockholder who has not received a copy of the Annual Report may obtain a copy by writing to the Corporate Secretary of the Company. The Annual Report is not to be treated as part of the proxy solicitation material or as having been incorporated by reference into this proxy statement.

If you and others who share your address own your shares in street name, your broker or other holder of record may be sending only one annual report and proxy statement to your address. This practice, known as householding, is designed to reduce our printing and postage costs. However, if a stockholder residing at such an address wishes to receive a separate annual report or proxy statement in the future, he or she

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should contact the broker or other holder of record. If you own your shares in street name and are receiving multiple copies of our annual report and proxy statement, you can request householding by contacting your broker or other holder of record.

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Whether or not you plan to attend the annual meeting, please vote by marking, signing, dating and promptly returning the enclosed proxy card in the enclosed envelope.

**Other Matters**

The Board of Directors is not aware of any business to come before the annual meeting other than the matters described above in the Proxy Statement. However, if any matters should properly come before the annual meeting, it is intended that the holders of the proxies will act in accordance with their best judgment.

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**APPENDIX A**

**Berkshire Hills Bancorp, Inc.  
2013 Equity Incentive Plan**

**ARTICLE 1 - GENERAL**

**Section 1.1** **Purpose, Effective Date and Term.** The purpose of this Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan (the Plan) is to promote the long-term financial success of Berkshire Hills Bancorp, Inc., a Delaware corporation (the Company), and its Subsidiaries, including Berkshire Bank (the Bank), by providing a means to attract, retain and reward individuals who contribute to such success and to further align their interests with those of the Company's stockholders. The Effective Date of the Plan shall be the date the Plan is implemented by the Board subsequent to the satisfaction of the shareholder approval requirements. The Plan shall remain in effect as long as any Awards are outstanding; *provided, however*, that no Awards may be granted under the Plan after the ten-year anniversary of the Effective Date.

**Section 1.2** **Administration.** The Plan shall be administered by the Compensation Committee of the Company's Board of Directors (the Committee), in accordance with Section 5.1.

**Section 1.3** **Participation.** Each Employee or Director of the Company, or any Subsidiary of the Company who is granted an Award in accordance with the terms of the Plan shall be a Participant in the Plan. Awards shall be limited to Employees and Directors of the Company or any Subsidiary.

**Section 1.4** **Definitions.** Capitalized terms used in this Plan are defined in Article 8 and elsewhere in this Plan.

**ARTICLE 2 - AWARDS**

**Section 2.1** **General.** Any Award under the Plan may be granted singularly, in combination with another Award (or Awards). Each Award under the Plan shall be subject to the terms and conditions of the Plan and such additional terms, conditions, limitations and restrictions as the Committee shall provide with respect to such Award and as evidenced in the Award Agreement. Subject to the provisions of Section 2.7, an Award may be granted as an alternative to or replacement of an existing Award under the Plan or any other plan of the Company or any Subsidiary or as the form of payment for grants or rights earned or due under any other compensation plan or arrangement of the Company or its Subsidiaries, including without limitation the plan of any entity acquired by the Company or any Subsidiary. The types of Awards that may be granted under the Plan include:

(a) *Stock Options.* A Stock Option means a grant under Section 2.2 that represents the right to purchase shares of Stock at an Exercise Price established by the Committee. Any Stock Option may be either an Incentive Stock Option (an ISO) that is intended to satisfy the requirements applicable to an Incentive Stock Option described in Code Section 422(b), or a Non-Qualified Stock Option (a Non-Qualified Option) that is not intended to be an ISO; provided, however, that no ISOs may be granted: (i) after the ten-year anniversary of the Effective Date; or (ii) to a non-Employee. Unless otherwise specifically provided by its terms, any Stock Option granted to an Employee under this Plan shall be an ISO. Any ISO granted under this Plan that does not qualify as an ISO for any reason (whether at the time of grant or as the result of a subsequent event) shall be deemed to be a Non-Qualified Option. In addition, any ISO granted under this Plan may be unilaterally modified by the Committee to disqualify such Stock Option from ISO treatment such that it shall become a Non-Qualified Option;

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provided, however, that any such modification shall be ineffective if it causes the Award to be subject to Code Section 409A (unless, as modified, the Award complies with Code Section 409A).

(b) *Restricted Stock Awards.* A Restricted Stock Award means a grant of shares of Stock under Section 2.3, including the grant of shares of Stock intended to be performance-based compensation under Section 2.4 of the Plan, for no consideration or such minimum consideration as may be required by applicable law, either alone or in addition to other Awards granted under the Plan, subject to a vesting schedule or the satisfaction of market conditions or performance conditions.

**Section 2.2** **Stock Options.**

(a) *Grant of Stock Options.* Each Stock Option shall be evidenced by an Award Agreement that shall: (i) specify the number of Stock Options covered by the Award; (ii) specify the date of grant of the Stock Option; (iii) specify the vesting period or conditions to vesting; and (iv) contain such other terms and conditions not inconsistent with the Plan, including the effect of termination of a Participant's employment or Service with the Company as the Committee may, in its discretion, prescribe.

(b) *Terms and Conditions.* A Stock Option shall be exercisable in accordance with such terms and conditions and during such periods as may be established by the Committee. In no event, however, shall a Stock Option expire later than ten (10) years after the date of its grant (or five (5) years with respect to ISOs granted to an Employee who is a 10% Stockholder). The Exercise Price of each Stock Option shall not be less than 100% of the Fair Market Value of a share of Stock on the date of grant (or, if greater, the par value of a share of Stock); *provided, however,* that the Exercise Price of an ISO shall not be less than 110% of Fair Market Value of a share of Stock on the date of grant if granted to a 10% Stockholder; *provided further,* that the Exercise Price may be higher or lower in the case of Stock Options granted or exchanged in replacement of existing Awards held by an Employee or Director of an acquired entity. The payment of the Exercise Price of a Stock Option shall be by cash or, subject to limitations imposed by applicable law, by such other means as the Committee may from time to time permit, including: (i) by tendering, either actually or constructively by attestation, shares of Stock valued at Fair Market Value as of the day of exercise; (ii) by a net settlement of the Stock Option with the Company, using a portion of the shares obtained on exercise in payment of the Exercise Price of the Stock Option (iii) by irrevocably authorizing a third party, acceptable to the Committee, to sell shares of Stock (or a sufficient portion of the shares) acquired upon exercise of the Stock Option and to remit to the Company a sufficient portion of the sale proceeds to pay the entire Exercise Price and any tax withholding resulting from such exercise; (iv) by personal, certified or cashiers check; (v) by other property deemed acceptable by the Committee; or (vi) by any combination thereof. The total number of shares that may be acquired upon the exercise of a Stock Option shall be rounded down to the nearest whole share.

**Section 2.3** **Restricted Stock Awards.**

(a) *Grant of Restricted Stock Awards.* Each Restricted Stock Award shall be evidenced by an Award Agreement that shall: (i) specify the number of shares of Stock covered by the Restricted Stock Award; (ii) specify the date of grant of the Restricted Stock Award; (iii) specify the vesting period; and (iv) contain such other terms and conditions not inconsistent with the Plan, including the effect of termination of a Participant's employment or Service with the Company, as the Committee may, in its discretion, prescribe. At the discretion of the Committee, all Restricted Stock Awards shall be in the form of issued and outstanding shares of Stock that shall be either: (x) registered in the name of the Participant and held by the Company, together with a stock power executed by the Participant in favor of the Company, pending the vesting or forfeiture of the Restricted Stock Award; or (y) registered in the name of, and delivered to, the Participant. In any event, the



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the Restricted Stock Award shall at all times prior to the applicable vesting date bear the following legend:

The Stock evidenced hereby is subject to the terms of an Award Agreement with Berkshire Hills Bancorp, Inc. dated [Date], made pursuant to the terms of the Berkshire Hills Bancorp, Inc. 2013 Equity Incentive Plan, copies of which are on file at the executive offices of Berkshire Hills Bancorp, Inc., and may not be sold, encumbered, hypothecated or otherwise transferred except in accordance with the terms of such Plan and Award Agreement,

or such other restrictive legend as the Committee, in its discretion, may specify. Notwithstanding the foregoing, the Company may in its sole discretion issue Restricted Stock Awards in any other approved format (*e.g. electronically*) in order to facilitate the paperless transfer of such Awards. In the event Restricted Stock Awards are not issued in certificate form, the Company and the transfer agent shall maintain appropriate bookkeeping entries that evidence Participants' ownership of such Awards. Restricted Stock Awards that are not issued in certificate form shall be subject to the same terms and conditions of the Plan as certificated shares, including the restrictions on transferability and the provision of a stock power executed by the Participant in favor of the Company, until the satisfaction of the conditions to which the Restricted Stock Award is subject.

(b) *Terms and Conditions.*

(i) *Dividends.* Unless the Committee determines otherwise with respect to any Restricted Stock Award and specifies such determination in the relevant Award Agreement, any cash dividends or distributions declared with respect to shares of Stock subject to the Restricted Stock Award shall be retained by the Committee and shall be held until the Stock subject to the Restricted Stock Award vests in the Participant. Upon the vesting of the Restricted Stock Award, the Committee shall cause the dividend (and any earnings thereon) attributable to such Restricted Stock Award to be distributed to the Participant no later than two and one-half months following the date on which the Restricted Stock Award vests. Alternatively, but only if determined by the Committee at the time of Award and set forth in the Award Agreement, cash dividends or distributions declared on the Restricted Stock shall be distributed to the Participant who has been granted the Restricted Stock at the same time as such dividends or distributions are distributed to other stockholders without regard to whether the Stock is vested. Any stock dividends declared on shares of Stock subject to the Restricted Stock Award, shall be subject to the same restrictions and shall vest at the same time as the shares of Restricted Stock from which said dividends were derived.

(ii) *Voting Rights.* Unless the Committee determines otherwise with respect to any Restricted Stock Award and specifies such determination in the relevant Award Agreement, voting rights appurtenant to the shares of Stock subject to the Restricted Stock Award shall be exercised by the Participant in his or her discretion.

(iii) *Tender Offers and Merger Elections.* Each Participant to whom a Restricted Stock Award is granted shall have the right to respond, or to direct the response, with respect to the related shares of Stock, to any tender offer, exchange offer, cash/stock merger consideration election or other offer made to, or elections made by, the holders of shares of Stock. Such a direction for any such shares of Stock shall be given by proxy or ballot (if the Participant is the beneficial owner of the shares of Stock for voting purposes) or by completing and filing, with the inspector of elections, the trustee or such other person who shall be independent of the Company as the Committee shall designate in the direction (if the Participant is not such a



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beneficial owner), a written direction in the form and manner prescribed by the Committee. If no such direction is given, then the shares of Stock shall not be tendered.

**Section 2.4**                      **Performance-Based Compensation.** Any Restricted Stock Award under the Plan that is intended to be performance-based compensation within the meaning of Code Section 162(m) shall be conditioned on the achievement of one or more objective performance measures, to the extent required by Code Section 162(m), as may be determined by the Committee. At the discretion of the Committee, Stock Options may also be subject to the achievement of one or more objective performance measures, although not necessary to satisfy the requirements of Code Section 162(m). The grant of any Award and the establishment of performance measures that are intended to be performance-based compensation shall be made during the period required under Code Section 162(m) and shall comply with all applicable requirements of Code Section 162(m).

- (a)                      *Performance Measures.* Such performance measures may be based on any one or more of the following:
- (1)                      basic earnings per share;
  - (2)                      basic cash earnings per share;
  - (3)                      diluted earnings per share;
  - (4)                      core earnings per share;
  - (5)                      diluted cash earnings per share;
  - (6)                      net income;
  - (7)                      cash earnings;
  - (8)                      net interest income;
  - (9)                      non-interest income;
  - (10)                      general and administrative expense to average assets ratio;
  - (11)                      cash general and administrative expense to average assets ratio;
  - (12)                      efficiency ratio;
  - (13)                      cash efficiency ratio;
  - (14)                      return on average assets;
  - (15)                      core return on average assets;

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- (16) cash return on average assets;
- (17) return on average stockholders' equity;
- (18) cash return on average stockholders' equity;
- (19) core return on stockholders' equity;
- (20) return on average tangible stockholders' equity;
- (21) cash return on average tangible stockholders' equity;
- (22) core earnings;
- (23) operating income;
- (24) operating efficiency;
- (25) core operating efficiency ratio;
- (26) net interest margin;
- (27) growth in assets, loans (including home equity lines of credit), or deposits;
- (28) loan production volume;
- (29) non-performing loans;
- (30) cash flow;
- (31) capital preservation (core or risk-based);
- (32) interest rate risk exposure-net portfolio value;
- (33) interest rate risk-sensitivity;
- (34) liquidity parameters;

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- (35) strategic business objectives, consisting of one or more objectives based upon meeting specified cost targets, business expansion goals, and goals relating to acquisitions or divestitures, or goals relating to capital raising and capital management;
- (36) stock price (including, but not limited to, growth measures and total shareholder return);
- (37) operating expense as a percentage of average assets;
- (38) core deposits as a percentage of total deposits;
- (39) net charge-off percentage;
- (40) average percentage past due;
- (41) classified assets to total assets;
- (42) compliance/audit exam findings;
- (43) capital ratio;
- (44) management achievement of strategic plan goals;
- (45) system knowledge & utilization of core applications;
- (46) customer service survey; or
- (47) any combination of the foregoing.

Performance measures may be based on the performance of the Company as a whole or on any one or more Subsidiaries or business units of the Company or a Subsidiary and may be measured relative to a peer group, an index or a business plan. In establishing any performance measures, the Committee may provide for the exclusion of the effects of the following items, to the extent identified in the audited financial statements of the Company, including footnotes, or in the Management's Discussion and Analysis section of the Company's annual report or in the Compensation Discussion and Analysis Section, if any, of the Company's annual proxy statement: (i) extraordinary, unusual, and/or nonrecurring items of gain or loss; (ii) gains or losses on the disposition of a business; (iii) changes in tax or accounting principles, regulations or laws; or (iv) mergers or acquisitions. To the extent not specifically excluded, such effects shall be included in any applicable performance measure.

(b) *Adjustments.* Pursuant to this Section 2.4, in certain circumstances the Committee may adjust performance measures; *provided, however*, no adjustment may be made with respect to an Award that is intended to be performance-based compensation within the meaning of Code Section 162(m), except to the extent the Committee exercises such negative discretion as is permitted under applicable law for purposes of an exception under Code Section 162(m). If the Committee determines that a change in the business, operations, corporate structure or capital structure of the Company or the manner in which the Company or its Subsidiaries conducts its business or other events or circumstances render current performance measures to be unsuitable, the Committee may modify such performance measures, in whole or in part, as the Committee deems appropriate. If a Participant is promoted, demoted or transferred to a different business unit during a performance period, the Committee may determine that the selected performance measures or applicable performance period are no longer appropriate, in which case, the Committee, in its sole discretion, may: (i) adjust, change or eliminate the performance measures or change the applicable performance period; or (ii) cause to be made a cash payment to the Participant in an amount determined by the Committee.

(c) *Retirement.* Notwithstanding anything herein to the Contrary, no Award that is intended to be considered performance-based compensation under Code Section 162(m) shall be granted under terms that will permit its accelerated vesting upon Retirement or other Termination of Service (other than death or Disability). Notwithstanding anything to the contrary herein, in the event of Retirement of a Participant during the performance period, the number of shares subject to a performance-based Award that will vest in the Participant, if any, shall be determined at the end of the performance period, and will be pro-rated based on the period of the Participant's active employment and the level of

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achievement of the performance measures, provided that, the Participant was employed for a minimum of one year during the performance period.

**Section 2.5**                    **Vesting of Awards.** (a) If the right to become vested in an Award under the Plan (including the right to exercise a Stock Option) is conditioned on the completion of a specified period of Service with the Company or its Subsidiaries, without achievement of performance measures or other performance objectives being required as a condition of vesting, and without it being granted in lieu of, or in exchange for, other compensation, then the required period of Service for full vesting shall be determined by the Committee and evidenced in the Award Agreement (subject to acceleration of vesting, to the extent permitted by the Committee, including in the event of the Participant's death, Disability, or a Change in Control). If the Committee does not specify the vesting period of an Award (other than an Award conditioned on the satisfaction of performance measures), the Award shall vest at the rate of twenty percent (20%) per year, commencing one year after the date of grant.

(b)                            Notwithstanding Section 2.8 and Article 4 hereof, the Committee may determine that all Stock Options then held by the Participant shall become fully exercisable (subject to the expiration provisions otherwise applicable to the Stock Option), and all Restricted Stock Awards described in Section 2.1(b) shall be fully earned and vested immediately.

**Section 2.6**                    **Deferred Compensation.** If any Award would be considered deferred compensation as defined under Code Section 409A (Deferred Compensation), the Committee reserves the absolute right (including the right to delegate such right) to unilaterally amend the Plan or the Award Agreement, without the consent of the Participant, to maintain exemption from, or to comply with, Code Section 409A. Any amendment by the Committee to the Plan or an Award Agreement pursuant to this Section 2.6 shall maintain, to the extent practicable, the original intent of the applicable provision without violating Code Section 409A. A Participant's acceptance of any Award under the Plan constitutes acknowledgement and consent to such rights of the Committee, without further consideration or action. Any discretionary authority retained by the Committee pursuant to the terms of this Plan or pursuant to an Award Agreement shall not be applicable to an Award which is determined to constitute Deferred Compensation, if such discretionary authority would contravene Code Section 409A.

**Section 2.7**                    **Prohibition Against Option Repricing.** Except for adjustments pursuant to Section 3.4, and reductions of the Exercise Price approved by the Company's stockholders, neither the Committee nor the Board shall have the right or authority to make any adjustment or amendment that reduces or would have the effect of reducing the Exercise Price of a Stock Option previously granted under the Plan, whether through amendment, cancellation (including cancellation in exchange for a cash payment in excess of the Stock Option's in-the-money value) or replacement grants, or other means.

**Section 2.8**                    **Effect of Termination of Service on Awards.** The Committee shall establish the effect of a Termination of Service on the continuation of rights and benefits available under an Award or the Plan and, in so doing, may make distinctions based upon, among other things, the cause of Termination of Service and type of Award. Unless the Committee shall specifically state otherwise at the time an Award is granted or unless the vesting of an Award is subject to the satisfaction of specific performance measures under Section 2.4 hereof, all Awards to an Employee or Director shall vest immediately upon such individual's death or Disability. If an Award is conditioned on the achievement of one or more objective performance measures, then upon a Participant's death or Disability during the performance period, the Award may become vested in accordance with the requirements set forth in Section 2.8(c). Unless otherwise provided in an Award Agreement, the following provisions shall apply to each Award granted under this Plan:



(a) Upon a Participant's Termination of Service for any reason other than Retirement, Disability, death or termination for Cause, Stock Options shall be exercisable only as to those

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shares that were immediately exercisable by such Participant at the date of termination, and Stock Options may be exercised only for a period of three (3) months following termination; *provided, however*, that upon a Participant's Termination of Service due to Retirement, Disability or death, unless the Committee specifies otherwise, the Participant's vested Stock Options shall remain exercisable for a period of one (1) year from the date of Retirement, Disability or death, or if sooner, until the expiration of the Option term. Notwithstanding the foregoing, an Employee who continues to serve as a Director following Termination of Service as an Employee or as a consultant to the Company or the Bank and a non-employee Director who continues to serve as a director emeritus or advisory board member following Termination of Service as a non-employee Director shall, unless otherwise specified in the Award Agreement, continue to vest in his or her Awards and shall not be deemed to have terminated Service due to Retirement until Service in all such capacities has terminated. No Stock Option will be considered ISOs unless exercised within three (3) months of Termination of Service, except to the extent set forth in 2.8(c) hereof.

(b) In the event of a Termination of Service for Cause, all Stock Options and Restricted Stock Awards granted to a Participant under the Plan not exercised or vested shall expire and be forfeited.

(c) Upon Termination of Service for reason of Disability or death and except to the extent that the Award is subject to Section 2.4 hereof, all Stock Options shall be exercisable as to all shares subject to an outstanding Award, whether or not then exercisable, and all Restricted Stock Awards shall vest as to all shares subject to an outstanding Award, whether or not otherwise immediately vested, at the date of Termination of Service. Upon Termination of Service for reason of Disability or death, Restricted Stock Awards that are subject to the satisfaction of specific performance-measures under Section 2.4 hereof shall vest at the date of death or Disability, based on the period of the Participant's active employment and assuming achievement of the performance measures at the target level. Upon Termination of Service due to Retirement, Restricted Stock Awards that are subject to the satisfaction of specific performance-measures under Section 2.4 hereof shall vest in the manner provided in Section 2.4(c). Unless the Committee specifies otherwise, Stock Options may be exercised for a period of one year following Termination of Service, *provided, however*, that no Stock Option shall be eligible for treatment as an ISO in the event such Stock Option is exercised more than one year following Termination of Service due to Disability and *provided, however*, in order to obtain ISO treatment for Stock Options exercised by heirs or devisees of an optionee, the optionee's death must have occurred while employed or within three (3) months of Termination of Service.

(d) Notwithstanding anything herein to the contrary, no Stock Option shall be exercisable beyond the last day of the original term of such Stock Option.

(e) Notwithstanding the provisions of this Section 2.8, the effect of a Change in Control on the vesting/exercisability of Stock Options and Restricted Stock Awards is as set forth in Article 4.

**ARTICLE 3 - SHARES SUBJECT TO PLAN**

**Section 3.1** Available Shares. The shares of Stock with respect to which Awards may be made under the Plan shall be shares currently authorized but unissued, currently held or, to the extent permitted by applicable law, subsequently acquired by the Company as treasury shares, including shares purchased in the open market or in private transactions.

**Section 3.2**

**Share Limitations.**

(a) *Share Reserve.* Subject to the following provisions of this Section 3.2, the maximum number of shares of Stock that may be delivered to Participants and their beneficiaries under

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the Plan shall be equal to One Million Thirty Thousand (1,030,000) shares of Stock. Subject to the limitations set forth in this Section 3.2, Awards under the Plan may be made in any combination of shares of Restricted Stock or Stock Options and all Awards may be granted as either Restricted Stock or Stock Options, in the discretion of the Committee, and all Stock Options may be granted as Incentive Stock Options. The aggregate number of shares available for grant under the Plan and the number of shares of Stock subject to outstanding Awards shall be subject to adjustment as provided herein and in Section 3.4.

(b) *Computation of Shares Available.* For purposes of this Section 3.2 and in connection with the granting of a Stock Option or a share of Restricted Stock Award, the number of shares of Stock available for the granting of additional Stock Options and Restricted Stock shall be reduced by the number of shares of Stock in respect of which the Stock Option or Restricted Stock Award is granted or denominated. To the extent any shares of Stock covered by an Award (including Restricted Stock Awards) under the Plan are not delivered to a Participant or beneficiary for any reason, including because the Award is forfeited or canceled or because a Stock Option is not exercised, then such shares shall not be deemed to have been delivered for purposes of determining the maximum number of shares of Stock available for delivery under the Plan. Notwithstanding the foregoing, the following shares of Stock shall not be added back to the shares authorized for grant under the Plan: (i) shares of Stock tendered or held back (i.e., net settlement) upon exercise of an Option to pay the Exercise Price, (ii) shares of Stock withheld to satisfy withholding taxes upon exercise of an Option or vesting of an Award granted hereunder, and (iii) shares reacquired, if any, by the Company on the open market or otherwise using cash proceeds from the exercise of an Option.

**Section 3.3** Limitations on Option Grants to Employees. The maximum number of shares of Stock, in the aggregate, that may be subject to Stock Options granted to any one Employee Participant under the Plan in any calendar year shall be one hundred and fifty-thousand (150,000) shares.

**Section 3.4** Corporate Transactions.

(a) *General.* In the event any recapitalization, forward or reverse stock split, reorganization, merger, consolidation, spin-off, combination, repurchase, or exchange of shares of Stock or other securities, stock dividend or other special and nonrecurring dividend or distribution (whether in the form of cash, securities or other property), liquidation, dissolution, or other similar corporate transaction or event, affects the shares of Stock such that an adjustment is appropriate in order to prevent dilution or enlargement of the rights of Participants under the Plan and/or under any Award granted under the Plan, then the Committee shall, in an equitable manner, adjust any or all of (i) the number and kind of securities deemed to be available thereafter for grants of Stock Options and Restricted Stock Awards in the aggregate to all Participants and individually to any one Participant, (ii) the number and kind of securities that may be delivered or deliverable in respect of outstanding Stock Options and Restricted Stock Awards, and (iii) the Exercise Price of Stock Options. In addition, the Committee is authorized to make adjustments in the terms and conditions of, and the criteria included in, Stock Options and Restricted Stock Awards (including, without limitation, cancellation of Stock Options and Restricted Stock Awards in exchange for the in-the-money value, if any, of the vested portion thereof, or substitution or exchange of Stock Options and Restricted Stock Awards using stock of a successor or other entity) in recognition of unusual or nonrecurring events (including, without limitation, events described in the preceding sentence) affecting the Company or any parent or Subsidiary or the financial statements of the Company or any parent or Subsidiary, or in response to changes in applicable laws, regulations, or accounting principles. Unless otherwise determined by the Committee, any such adjustment to an Award intended to qualify as performance-based compensation shall conform to the requirements of Code Section 162(m) and the regulations thereunder then in effect.

(b) *Merger in which Company is Not Surviving Entity.* In the event of any merger, consolidation, or other business reorganization (including, but not limited to, a Change in Control) in



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which the Company is not the surviving entity, unless otherwise determined by the Committee at any time at or after grant and prior to the consummation of such merger, consolidation or other business reorganization, any Stock Options granted under the Plan which remain outstanding shall be converted into Stock Options to purchase voting common equity securities of the business entity which survives such merger, consolidation or other business reorganization having substantially the same terms and conditions as the outstanding Stock Options under this Plan and reflecting the same economic benefit (as measured by the difference between the aggregate Exercise Price and the value exchanged for outstanding shares of Stock in such merger, consolidation or other business reorganization), all as determined by the Committee prior to the consummation of such merger; provided, however, that the Committee may, at any time prior to the consummation of such merger, consolidation or other business reorganization, direct that all, but not less than all, outstanding Stock Options be canceled as of the effective date of such merger, consolidation or other business reorganization in exchange for a cash payment per share of Stock equal to the excess (if any) of the value exchanged for an outstanding share of Stock in such merger, consolidation or other business reorganization over the Exercise Price of the Stock Option being canceled.

**Section 3.5** **Delivery of Shares.** Delivery of shares of Stock or other amounts under the Plan shall be subject to the following:

(a) *Compliance with Applicable Laws.* Notwithstanding any other provision of the Plan, the Company shall have no obligation to deliver any shares of Stock or make any other distribution of benefits under the Plan unless such delivery or distribution complies with all applicable laws (including, the requirements of the Securities Act), and the applicable requirements of any securities exchange or similar entity.

(b) *Certificates.* To the extent that the Plan provides for the issuance of shares of Stock, the issuance may be effected on a non-certificated basis, to the extent not prohibited by applicable law or the applicable rules of any stock exchange.

**ARTICLE 4 - CHANGE IN CONTROL**

**Section 4.1** **Consequence of a Change in Control.** Subject to the provisions of Section 2.5 (relating to vesting and acceleration) and Section 3.4 (relating to the adjustment of shares), and except as otherwise provided in the Plan or as determined by the Committee and set forth in the terms of any Award Agreement:

(a) In the event of a Change in Control, all Stock Options then held by the Participant shall become fully vested and exercisable (subject to the expiration provisions otherwise applicable to the Stock Option) whether or not the Participant has a Termination of Service (other than for Cause).

(b) In the event of a Change in Control, all Restricted Stock Awards described in Section 2.1(b) shall become fully vested whether or not the Participant has a Termination of Service (other than for Cause).

**Section 4.2**

**Definition of Change in Control.** For purposes of the Plan, unless otherwise provided in an Award Agreement,

a Change in Control shall be deemed to have occurred upon the earliest to occur of the following:

(a) an event of a nature that would be required to be reported in response to Item 5.01 of the current report on Form 8-K, as in effect on the date hereof, pursuant to Section 13 or 15(d) of the Exchange Act;

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(b) any person, as such term is used in Sections 13(d) and 14(d) of the Exchange Act (a Person), is or becomes the beneficial owner (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of securities of the Company representing twenty percent (20%) or more of the combined voting power of the Company's then outstanding Voting Securities, provided that, notwithstanding the foregoing and for all purposes of this Plan: (a) the term Person shall not include (1) the Company or any of its Subsidiaries, (2) an employee benefit plan of the Company or any of its Subsidiaries (including the Plan), and any trustee or other fiduciary holding securities under any such plan (but only with respect to securities held under any such plan), or (3) a corporation or other entity owned, directly or indirectly, by the stockholders of the Company in substantially the same proportions as their ownership of Stock of the Company; (b) no Person shall be deemed the beneficial owner of any securities acquired by such Person in an Excluded Transaction; and (c) no Director or officer of the Company or any direct or indirect Subsidiary of the Company (or any affiliate of any such Director or officer) shall, by reason of any or all of such Directors or officers acting in their capacities as such, be deemed to beneficially own any securities beneficially owned by any other such Director or officer (or any affiliate thereof); or

(c) the Incumbent Directors cease, for any reason, to constitute a majority of the Whole Board; or

(d) a plan of reorganization, merger, consolidation or similar transaction involving the Company and one or more other corporations or entities is consummated, other than a plan of reorganization, merger, consolidation or similar transaction that is an Excluded Transaction, or the stockholders of the Company approve a plan of complete liquidation of the Company, or a sale, liquidation or other disposition of all or substantially all of the assets of the Company or any bank Subsidiary of the Company is consummated; or

(e) a tender offer is made for 20% or more of the outstanding Voting Securities of the Company and the stockholders owning beneficially or of record 20% or more of the outstanding Voting Securities of the Company have tendered or offered to sell their shares pursuant to such tender offer and such tendered shares have been accepted by the tender offeror.

Notwithstanding the foregoing, a Change in Control shall not be deemed to occur solely because any Person (the Subject Person) acquired beneficial ownership of more than the permitted amount of the then outstanding common stock or Voting Securities as a result of a change in number of shares of Stock or Voting Securities then outstanding which thereby increases the proportional number of shares beneficially owned by the Subject Person; *provided, however*, that if a Change in Control would occur (but for the operation of this sentence) as a result of the acquisition of Stock or Voting Securities by the Company, and after such share acquisition by the Company, the Subject Person becomes the beneficial owner of any additional Stock or Voting Securities which increases the percentage of the then outstanding Stock or Voting Securities beneficially owned by the Subject Person, then a Change in Control shall occur. In the event that an Award constitutes Deferred Compensation, and the settlement of, or distribution of benefits under, such Award is to be triggered solely by a Change in Control, then with respect to such Award, a Change in Control shall be defined as required under Code Section 409A, as in effect at the time of such transaction.

**ARTICLE 5 - COMMITTEE**

**Section 5.1** **Administration.** The Plan shall be administered by the members of the Compensation Committee of the Company who are Disinterested Board Members. If the Committee consists of fewer than three Disinterested Board Members, then the Board shall appoint to the Committee such additional Disinterested Board Members as shall be necessary to provide for a Committee consisting of at least three Disinterested Board Members. Any members of the Committee who do not qualify as





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Disinterested Board Members shall abstain from participating in any discussion to make or administer Awards that are made to Participants who at the time of consideration for such Award: (i) are persons subject to the short-swing profit rules of Section 16 of the Exchange Act, or (ii) are reasonably anticipated to be Covered Employees during the term of the Award. The Board (or those members of the Board who are independent directors under the corporate governance statutes of any national securities exchange on which the Company lists its securities) may, in its discretion, take any action and exercise any power, privilege or discretion conferred on the Committee under the Plan with the same force and effect under the Plan as if done or exercised by the Committee.

**Section 5.2** Powers of Committee. The Committee's administration of the Plan shall be subject to the following:

(a) Subject to the provisions of the Plan, the Committee will have the authority and discretion to select from among the Company's and its Subsidiaries Employees and Directors those persons who shall receive Awards, to determine the time or times of receipt, to determine the types of Awards and the number of shares covered by the Awards, to establish the terms, conditions, performance criteria, restrictions (including without limitation, provisions relating to non-competition, non-solicitation and confidentiality), and other provisions of such Awards (subject to the restrictions imposed by Article 6) to cancel or suspend Awards and to reduce, eliminate or accelerate any restrictions or vesting requirements applicable to an Award at any time after the grant of the Award.

(b) The Committee will have the authority and discretion to interpret the Plan, to establish, amend and rescind any rules and regulations relating to the Plan, and to make all other determinations that may be necessary or advisable for the administration of the Plan.

(c) The Committee will have the authority to define terms not otherwise defined herein.

(d) Any interpretation of the Plan by the Committee and any decision made by it under the Plan is final and binding on all persons.

(e) In controlling and managing the operation and administration of the Plan, the Committee shall take action in a manner that conforms to the charter and bylaws of the Company and applicable corporate law.

**Section 5.3** Delegation by Committee. Except to the extent prohibited by applicable law, the applicable rules of a stock exchange or the Plan, or as necessary to comply with the exemptive provisions of Rule 16b-3 promulgated under the Exchange Act or Code Section 162(m), the Committee may allocate all or any portion of its responsibilities and powers to any one or more of its members and may delegate all or any part of its responsibilities and powers to any person or persons selected by it, including: (a) delegating to a committee of one or more members of the Board who are not outside directors within the meaning of Code Section 162(m), the authority to grant Awards under the Plan to eligible persons who are not persons with respect to whom the Company wishes to comply with Code Section 162(m); and/or (b) delegating to a committee of one or more members of the Board who are not non-employee directors, within the meaning of Rule 16b-3, the authority to grant Awards under the Plan to eligible persons who are not then subject to Section 16 of the Exchange Act. The acts of such delegates shall be treated hereunder as acts of the Committee and such delegates shall report regularly to the Committee regarding the delegated duties and responsibilities and any Awards so granted. Any such allocation or delegation may be revoked by the Committee at any time.

**Section 5.4**                    **Information to be Furnished to Committee.** As may be permitted by applicable law, the Company and its Subsidiaries shall furnish the Committee with such data and

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information as it determines may be required for it to discharge its duties. The records of the Company and its Subsidiaries as to a Participant's employment, termination of employment, leave of absence, reemployment and compensation shall be conclusive on all persons unless determined by the Committee to be manifestly incorrect. Subject to applicable law, Participants and other persons entitled to benefits under the Plan must furnish the Committee such evidence, data or information as the Committee considers desirable to carry out the terms of the Plan.

**Section 5.5**                    **Committee Action.** The Committee shall hold such meetings, and may make such administrative rules and regulations, as it may deem proper. A majority of the members of the Committee shall constitute a quorum, and the action of a majority of the members of the Committee present at a meeting at which a quorum is present, as well as actions taken pursuant to the unanimous written consent of all of the members of the Committee without holding a meeting, shall be deemed to be actions of the Committee. All actions of the Committee shall be final and conclusive and shall be binding upon the Company, Participants and all other interested parties. Any person dealing with the Committee shall be fully protected in relying upon any written notice, instruction, direction or other communication signed by a member of the Committee or by a representative of the Committee authorized to sign the same in its behalf.

**ARTICLE 6 - AMENDMENT AND TERMINATION**

**Section 6.1**                    **General.** The Board may, as permitted by law, at any time, amend or terminate the Plan, and may amend any Award Agreement, provided that no amendment or termination (except as provided in Section 2.6, Section 3.4 and Section 6.2) may cause the Award to violate Code Section 409A, or, in the absence of written consent to the change by the affected Participant (or, if the Participant is not then living, the affected beneficiary), adversely impair the rights of any Participant or beneficiary under any Award granted under the Plan prior to the date such amendment is adopted by the Board; *provided, however*, that, no amendment may (a) materially increase the benefits accruing to Participants under the Plan; (b) materially increase the aggregate number of securities which may be issued under the Plan, other than pursuant to Section 3.4, or (c) materially modify the requirements for participation in the Plan, unless the amendment under (a), (b) or (c) above is approved by the Company's stockholders.

**Section 6.2**                    **Amendment to Conform to Law and Accounting Changes.** Notwithstanding any provision in this Plan or any Award Agreement to the contrary, the Committee may amend the Plan or an Award Agreement, to take effect retroactively or otherwise, as deemed necessary or advisable for the purpose of (i) conforming the Plan or the Award Agreement to any present or future law relating to plans of this or similar nature (including, but not limited to, Code Section 409A), or (ii) avoiding an accounting treatment resulting from an accounting pronouncement or interpretation thereof issued by the Securities and Exchange Commission or Financial Accounting Standards Board subsequent to the adoption of the Plan or the making of the Award affected thereby, which, in the sole discretion of the Committee, may materially and adversely affect the financial condition or results of operations of the Company. By accepting an Award under this Plan, each Participant agrees and consents to any amendment made pursuant to this Section 6.2 or Section 2.6 to any Award granted under the Plan without further consideration or action.

**ARTICLE 7 - GENERAL TERMS**

**Section 7.1**                    **No Implied Rights.**

(a) *No Rights to Specific Assets.* Neither a Participant nor any other person shall by reason of participation in the Plan acquire any right in or title to any assets, funds or property of the Company or any Subsidiary whatsoever, including any specific funds, assets, or other property which the Company or any Subsidiary, in its sole discretion, may set aside in anticipation of a liability under the

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Plan. A Participant shall have only a contractual right to the shares of Stock or amounts, if any, payable or distributable under the Plan, unsecured by any assets of the Company or any Subsidiary, and nothing contained in the Plan shall constitute a guarantee that the assets of the Company or any Subsidiary shall be sufficient to pay any benefits to any person.

(b) *No Contractual Right to Employment or Future Awards.* The Plan does not constitute a contract of employment, and selection as a Participant will not give any participating Employee the right to be retained in the employ of the Company or any Subsidiary or any right or claim to any benefit under the Plan, unless such right or claim has specifically accrued under the terms of the Plan. No individual shall have the right to be selected to receive an Award under the Plan, or, having been so selected, to receive a future Award under the Plan.

(c) *No Rights as a Stockholder.* Except as otherwise provided in the Plan, no Award under the Plan shall confer upon the holder thereof any rights as a stockholder of the Company prior to the date on which the individual fulfills all conditions for receipt of such rights.

**Section 7.2** Transferability. Except as otherwise so provided by the Committee, ISOs under the Plan are not transferable except (i) as designated by the Participant by will or by the laws of descent and distribution, (ii) to a trust established by the Participant, if under Code Section 671 and applicable state law, the Participant is considered the sole beneficial owner of the Stock Option while held in trust, or (iii) between spouses incident to a divorce or pursuant to a domestic relations order, provided, however, in the case of a transfer within the meaning of this Section 7.2(iii), the Stock Option shall not qualify as an ISO as of the day of such transfer. The Committee shall have the discretion to permit the transfer of Stock Options (other than ISOs) under the plan; *provided, however*, that such transfers shall be limited to Immediate Family Members of Participants, trusts and partnerships established for the primary benefit of such family members or to charitable organizations, and; *provided, further*, that such transfers are not made for consideration to the Participant. Restricted Stock Awards shall not be transferable prior to the time that such Awards vest in the Participant.

**Section 7.3** Designation of Beneficiaries. A Participant hereunder may file with the Company a written designation of a beneficiary or beneficiaries under the Plan and may from time to time revoke or amend any such designation. Any designation of beneficiary under the Plan shall be controlling over any other disposition, testamentary or otherwise (unless such disposition is pursuant to a domestic relations order); *provided, however*, that if the Committee is in doubt as to the entitlement of any such beneficiary to any Award, the Committee may determine to recognize only the legal representative of the Participant, in which case the Company, the Committee and the members thereof shall not be under any further liability to anyone.

**Section 7.4** Non-Exclusivity. Neither the adoption of the Plan by the Board nor the submission of the Plan to the stockholders of the Company for approval shall be construed as creating any limitations on the power of the Board or the Committee to adopt such other incentive arrangements as either may deem desirable, including, without limitation, the granting of Stock Options or Restricted Stock Awards otherwise than under the Plan or an arrangement that is or is not intended to qualify under Code Section 162(m), and such arrangements may be either generally applicable or applicable only in specific cases.

**Section 7.5** Award Agreement. Each Award granted under the Plan shall be evidenced by an Award Agreement signed by the Participant. A copy of the Award Agreement, in any medium chosen by the Committee, shall be provided (or made available electronically) to the Participant.

**Section 7.6** **Form and Time of Elections/Notification Under Section 83(b).** Unless otherwise specified herein, each election required or permitted to be made by any Participant or other

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person entitled to benefits under the Plan, and any permitted modification, or revocation thereof, shall be filed with the Company at such times, in such form, and subject to such restrictions and limitations, not inconsistent with the terms of the Plan, as the Committee shall require. Notwithstanding anything herein to the contrary, the Committee may, on the date of grant or at a later date, as applicable, prohibit an individual from making an election under Code Section 83(b). If the Committee has not prohibited an individual from making this election, an individual who makes this election shall notify the Committee of the election within ten (10) days of filing notice of the election with the Internal Revenue Service. This requirement is in addition to any filing and notification required under the regulations issued under the authority of Code Section 83(b).

**Section 7.7**                    **Evidence.** Evidence required of anyone under the Plan may be by certificate, affidavit, document or other information which the person acting on it considers pertinent and reliable, and signed, made or presented by the proper party or parties.

**Section 7.8**                    **Tax Withholding.** Where a Participant is entitled to receive shares of Stock upon the vesting or exercise of an Award, the Company shall have the right to require such Participant to pay to the Company the amount of any tax that the Company is required to withhold with respect to such vesting or exercise, or, in lieu thereof, to retain, or to sell without notice, a sufficient number of shares of Stock to cover the minimum amount required to be withheld. To the extent determined by the Committee and specified in an Award Agreement, a Participant shall have the right to direct the Company to satisfy the minimum required federal, state and local tax withholding by: (i) with respect to a Stock Option settled in stock, reducing the number of shares of Stock subject to the Stock Option (without issuance of such shares of Stock to the Stock Option holder) by a number equal to the quotient of (a) the total minimum amount of required tax withholding divided by (b) the excess of the Fair Market Value of a share of Stock on the exercise date over the Exercise Price per share of Stock; and (ii) with respect to a Restricted Stock Award, withholding a number of shares (based on the Fair Market Value on the vesting date) otherwise vesting that would satisfy the minimum amount of required tax withholding. Provided there are no adverse accounting consequences to the Company (a requirement to have liability classification of an award under Financial Accounting Standards Board Accounting Standards Codification 718 is an adverse consequence), a Participant who is not required to have taxes withheld may require the Company to withhold in accordance with the preceding sentence as if the Award were subject to minimum tax withholding requirements.

**Section 7.9**                    **Action by Company or Subsidiary.** Any action required or permitted to be taken by the Company or any Subsidiary shall be by resolution of its board of directors, or by action of one or more members of the Board (including a committee of the Board) who are duly authorized to act for the Board, or (except to the extent prohibited by applicable law or applicable rules of any stock exchange) by a duly authorized officer of the Company or such Subsidiary.

**Section 7.10**                  **Successors.** All obligations of the Company under the Plan shall be binding upon and inure to the benefit of any successor to the Company, whether the existence of such successor is the result of a direct or indirect purchase, merger, consolidation or otherwise, of all or substantially all of the business, stock, and/or assets of the Company.

**Section 7.11**                  **Indemnification.** To the fullest extent permitted by law and the Company's governing documents or each person who is or shall have been a member of the Committee, or of the Board, or an officer of the Company to whom authority was delegated in accordance with Section 5.3, or an Employee of the Company shall be indemnified and held harmless by the Company against and from any loss (including amounts paid in settlement), cost, liability or expense (including reasonable attorneys' fees) that may be imposed upon or reasonably incurred by him or her in connection with or resulting from any claim, action, suit, or proceeding to which he or she may be a party or in which he or she may be involved by reason of any action taken or failure to act under the Plan and against and from any and all





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amounts paid by him or her in settlement thereof, with the Company's approval, or paid by him or her in satisfaction of any judgment in any such action, suit, or proceeding against him or her, provided he or she shall give the Company an opportunity, at its own expense, to handle and defend the same before he or she undertakes to handle and defend it on his or her own behalf, unless such loss, cost, liability, or expense is a result of his or her own willful misconduct or except as expressly provided by statute or regulation. The foregoing right of indemnification shall not be exclusive of any other rights of indemnification to which such persons may be entitled under the Company's charter or bylaws, as a matter of law, or otherwise, or any power that the Company may have to indemnify them or hold them harmless.

**Section 7.12** No Fractional Shares. Unless otherwise permitted by the Committee, no fractional shares of Stock shall be issued or delivered pursuant to the Plan or any Award. The Committee shall determine whether cash or other property shall be issued or paid in lieu of fractional shares or whether such fractional shares or any rights thereto shall be forfeited or otherwise eliminated.

**Section 7.13** Governing Law. The Plan, all Awards granted hereunder, and all actions taken in connection herewith shall be governed by and construed in accordance with the laws of the State of Delaware without reference to principles of conflict of laws, except as superseded by applicable federal law. The federal and state courts located nearest to the Company's home office within the Commonwealth of Massachusetts, shall have exclusive jurisdiction over any claim, action, complaint or lawsuit brought under the terms of the Plan. By accepting any Award under the Plan, each Participant, and any other person claiming any rights under the Plan, agrees to submit himself, and any such legal action as he shall bring under the Plan, to the sole jurisdiction of such courts for the adjudication and resolution of any such disputes.

**Section 7.14** Benefits Under Other Plans. Except as otherwise provided by the Committee or as set forth in a Qualified Retirement Plan, Awards to a Participant (including the grant and the receipt of benefits) under the Plan shall be disregarded for purposes of determining the Participant's benefits under, or contributions to, any Qualified Retirement Plan, non-qualified plan and any other benefit plans maintained by the Participant's employer. The term "Qualified Retirement Plan" means any plan of the Company or a Subsidiary that is intended to be qualified under Code Section 401(a).

**Section 7.15** Validity. If any provision of this Plan is determined to be illegal or invalid for any reason, said illegality or invalidity shall not affect the remaining parts hereof, but the Plan shall be construed and enforced as if such illegal or invalid provision has never been included herein.

**Section 7.16** Notice. Unless otherwise provided in an Award Agreement, all written notices and all other written communications to the Company provided for in the Plan or in any Award Agreement, shall be delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid (provided that international mail shall be sent via overnight or two-day delivery), or sent by facsimile, email or prepaid overnight courier to the Company at its principal executive office. Such notices, demands, claims and other communications shall be deemed given:

(a) in the case of delivery by overnight service with guaranteed next day delivery, the next day or the day designated for delivery;

(b) in the case of certified or registered U.S. mail, five (5) days after deposit in the U.S. mail; or

(c) in the case of facsimile or email, the date upon which the transmitting party received confirmation of receipt; *provided, however,* that in no event shall any such communications be deemed to be given later than the date they are actually received, provided they are actually received.

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In the event a communication is not received, it shall only be deemed received upon the showing of an original of the applicable receipt, registration or confirmation from the applicable delivery service. Communications that are to be delivered by the U.S. mail or by overnight service to the Company shall be directed to the attention of the Company's Chief Executive Officer and to the Corporate Secretary.

**Section 7.17**                      **Forfeiture Events.**

(a)                      The Committee may specify in an Award Agreement that the Participant's rights, payments, and benefits with respect to an Award shall be subject to reduction, cancellation, forfeiture or recoupment upon the occurrence of certain specified events, in addition to any otherwise applicable vesting or performance conditions of an Award. Such events include, but shall not be limited to, termination of employment for Cause, termination of the Participant's provisions of Services to the Company or any Subsidiary, violation of material Company or Subsidiary policies, breach of noncompetition, confidentiality, or other restrictive covenants that may apply to the Participant, or other conduct of the Participant that is detrimental to the business or reputation of the Company or any Subsidiary.

(b)                      If the Company is required to prepare an accounting restatement due to the material noncompliance of the Company, as a result of misconduct, with any financial reporting requirement under the securities laws, any Participant who is subject to automatic forfeiture under Section 304 of the Sarbanes-Oxley Act of 2002 or any similar securities law shall reimburse the Company the amount of any payment in settlement of an Award earned or accrued during the twelve (12) month period following the first public issuance of filing with the United States Securities and Exchange Commission (whichever just occurred) of the financial document embodying such financial reporting requirement.

In addition, in the event of an accounting restatement, the Committee, in its sole and exclusive discretion, may require that any Participant reimburse the Company for all or any part of the amount of any payment in settlement of any Award granted hereunder.

**ARTICLE 8 - DEFINED TERMS**

In addition to the other definitions contained herein, unless otherwise specifically provided in an Award Agreement, the following definitions shall apply.

8.1                      10% Stockholder means an individual who, at the time of grant, owns stock possessing more than ten percent (10%) of the total combined voting power of all classes of stock of the Company.

8.2                      Award means any Stock Option and Restricted Stock Award or any or all of them, or any other right or interest relating to stock or cash, granted to a Participant under the Plan.

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8.3 Award Agreement means the document (in whatever medium prescribed by the Committee) which evidences the terms and conditions of an Award under the Plan. Such document is referred to as an agreement, regardless of whether a Participant's signature is required.

8.4 Board means the Board of Directors of the Company.

8.5 If the Participant is subject to a written employment agreement (or other similar written agreement) with the Company or a Subsidiary that provides a definition of termination for Cause, then, for purposes of this Plan, the term Cause shall have meaning set forth in such agreement. In the absence of such a definition, Cause means (i) the conviction of the Participant of a felony or of any lesser criminal offense involving moral turpitude; (ii) the willful commission by the Participant of a criminal or other act that, in the judgment of the Board, will likely cause substantial economic damage to

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the Company or any Subsidiary or substantial injury to the business reputation of the Company or any Subsidiary; (iii) the commission by the Participant of an act of fraud in the performance of his duties on behalf of the Company or any Subsidiary; (iv) the continuing willful failure of the Participant to perform his duties to the Company or any Subsidiary (other than any such failure resulting from the Participant's incapacity due to physical or mental illness) after written notice thereof; or (v) an order of a federal or state regulatory agency or a court of competent jurisdiction requiring the termination of the Participant's Service with the Company.

8.6 Change in Control has the meaning ascribed to it in Section 4.2.

8.7 Code means the Internal Revenue Code of 1986, as amended, and any rules, regulations and guidance promulgated thereunder, as modified from time to time.

8.8 Code Section 409A means the provisions of Section 409A of the Code and any rules, regulations and guidance promulgated thereunder, as modified from time to time.

8.9 Committee means the Committee acting under Article 5.

8.10 Covered Employee has the meaning given the term in Code Section 162(m), and shall also include any other Employee who may become a Covered Employee before an Award vests, as the Committee may determine in its sole discretion.

8.11 Director means a member of the Board of Directors of the Company or a Subsidiary.

8.12 If the Participant is subject to a written employment agreement (or other similar written agreement) with the Company or a Subsidiary that provides a definition of Disability or Disabled, then, for purposes of this Plan, the terms Disability or Disabled shall have meaning set forth in such agreement. In the absence of such a definition, Disability means any mental or physical condition with respect to which the Participant qualified for and receives benefits under a long-term disability plan of the Company or Subsidiary, or in the absence of such a long-term disability plan or coverage under such plan, Disability shall mean a physical or mental condition which, in the sole discretion of the Committee, is reasonably expected to be of indefinite duration and to substantially prevent the Participant from fulfilling his duties or responsibilities to the Company or a Subsidiary. If an Award is determined to be subject to Code Section 409A, then notwithstanding anything else herein to the contrary, Disability or Disabled shall mean that a Participant: (i) is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months; or (ii) is, by reason of any medically determinable physical or mental impairment which can be expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months, receiving income replacement benefits for a period of not less than three (3) months under an accident and health plan covering the Company's Employees, or (iii) is determined to be totally disabled by the Social Security Administration. Except to the extent prohibited under Code Section 409A, if applicable, the Committee shall have discretion to determine if a termination due to Disability has occurred.

8.13 Disinterested Board Member means a member of the Board who: (a) is not a current Employee of the Company or a Subsidiary; (b) is not a former employee of the Company who receives compensation for prior Services (other than benefits under a Qualified Retirement Plan) during the taxable year; (c) has not been an officer of the Company; (d) does not receive remuneration from the Company or a Subsidiary, either directly or indirectly, in any capacity other than as a Director except in an amount for which disclosure would not be required pursuant to Item 404 of SEC Regulation S-K in accordance with the proxy solicitation rules of the SEC, as amended or any successor provision thereto; and (e) does not possess an interest in any other transaction, and is not engaged in a business

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relationship for which disclosure would be required pursuant to Item 404(a) of SEC Regulation S-K under the proxy solicitation rules of the SEC, as amended or any successor provision thereto. The term Disinterested Board Member shall be interpreted in such manner as shall be necessary to conform to the requirements of section 162(m) of the Code, Rule 16b-3 promulgated under the Exchange Act and the corporate governance standards imposed on compensation committees under the listing requirements imposed by any national securities exchange on which the Company lists or seeks to list its securities.

8.14            **Employee** means any person employed by the Company or any Subsidiary. Directors who are also employed by the Company or a Subsidiary shall be considered Employees under the Plan.

8.15            **Exchange Act** means the Securities Exchange Act of 1934, as amended from time to time.

8.16            **Excluded Transaction** means a plan of reorganization, merger, consolidation or similar transaction that would result in the Voting Securities of the Company outstanding immediately prior thereto continuing to represent (either by remaining outstanding or by being converted into Voting Securities of the surviving corporation or any parent thereof) at least 50% of the combined voting power of the Voting Securities of the entity surviving the plan of reorganization, merger, consolidation or similar transaction (or the parent of such surviving entity) immediately after such plan of reorganization, merger, consolidation or similar transaction.

8.17            **Exercise Price** means the price established with respect to a Stock Option pursuant to Section 2.2.

8.18            **Fair Market Value** means, with respect to a share of Stock on a specified date:

(I) the final reported sales price on the date in question (or if there is no reported sale on such date, on the last preceding date on which any reported sale occurred) as reported in the principal consolidated reporting system with respect to securities listed or admitted to trading on the principal United States securities exchange on which the shares of Stock are listed or admitted to trading, as of the close of the market in New York City and without regard to after-hours trading activity; or

(II) if the shares of Stock are not listed or admitted to trading on any such exchange, the closing bid quotation with respect to a share of Stock on such date, as of the close of the market in New York City and without regard to after-hours trading activity, or, if no such quotation is provided, on another similar system, selected by the Committee, then in use; or

(III) if (I) and (II) are not applicable, the Fair Market Value of a share of Stock as the Committee may determine in good faith and in accordance with Code Section 422 and the applicable requirements of Code Section 409A and the regulations promulgated thereunder. For purposes of the exercise of a Stock Option, Fair Market Value on such date shall be the date a notice of exercise is received by the Company, or if not a day on which the market is open, the next day that it is open.



8.19 Immediate Family Member means with respect to any Participant: (a) any of the Participant's children, stepchildren, grandchildren, parents, stepparents, grandparents, spouses, former spouses, siblings, nieces, nephews, mothers-in-law, fathers-in-law, sons-in-law, daughters-in-law, brothers-in-law or sisters-in-law, including relationships created by adoption; (b) any natural person sharing the Participant's household (other than as a tenant or employee, directly or indirectly, of the Participant); (c) a trust in which any combination of the Participant and persons described in section (a) and (b) above own more than fifty percent (50%) of the beneficial interests; (d) a foundation in

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which any combination of the Participant and persons described in sections (a) and (b) above control management of the assets; or (e) any other corporation, partnership, limited liability company or other entity in which any combination of the Participant and persons described in sections (a) and (b) above control more than fifty percent (50%) of the voting interests.

8.20 Incumbent Directors means:

(I) the individuals who, on the date hereof, constitute the Board; and

(II) any new Director whose appointment or election by the Board or nomination for election by the Company's stockholders was approved or recommended: (a) by the vote of at least two-thirds (2/3) of the Whole Board, with at least two-thirds of the Incumbent Directors then in office voting in favor of such approval or recommendation; or (b) by a Nominating Committee of the Board whose members were appointed by the vote of at least three-quarters (3/4) of the Whole Board, with at least two-thirds of the Incumbent Directors then in office voting in favor of such appointments.

8.21 ISO has the meaning ascribed to it in Section 2.1(a).

8.22 Non-Qualified Option means the right to purchase shares of Stock that is either (i) granted to a Participant who is not an Employee, or (ii) granted to an Employee and either is not designated by the Committee to be an ISO or does not satisfy the requirements of Section 422 of the Code.

8.23 Participant means any individual who has received, and currently holds, an outstanding Award under the Plan.

8.24 Restricted Stock Award has the meaning ascribed to it in Section 2.3.

8.25 Retirement means retirement from employment with the Company or a Subsidiary in accordance with the then current retirement policies of the Company or Subsidiary, as applicable. Retirement with respect to a non-employee Director means the termination of service from the Board(s) of Directors of the Company and any Subsidiary following written notice to such Board(s) of Directors of the non-employee Directors intention to retire. Notwithstanding the foregoing, unless the Committee specifies otherwise at the time of an Award, an Employee who continues to serve on the Board following retirement as an Employee or a Director who continues to serve as an advisory board member or director emeritus shall not be deemed to have terminated due to Retirement until both Service as an Employee and Director, or in the latter case, as a Director and advisory board member or director emeritus has terminated.

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8.26 SEC means the Securities and Exchange Commission.

8.27 Securities Act means the Securities Act of 1933, as amended from time to time.

8.28 Service means service as an Employee or non-employee Director of the Company or a Subsidiary, as the case may be, and shall include service as a director emeritus or advisory director.

8.29 Stock means the common stock of the Company, par value \$.01 per share.

8.30 Stock Option means an ISO or a Non-Qualified Option.

8.31 Subsidiary means any corporation, affiliate, bank or other entity which would be a subsidiary corporation with respect to the Company as defined in Code Section 424(f) and, other than

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with respect to an ISO, shall also mean any partnership or joint venture in which the Company and/or other Subsidiary owns more than fifty percent (50%) of the capital or profits interests.

8.32 Termination of Service means the first day occurring on or after a grant date on which the Participant ceases to be an Employee or Director of the Company or any Subsidiary, regardless of the reason for such cessation, subject to the following:

(I) The Participant's cessation as an Employee shall not be deemed to occur by reason of the transfer of the Participant between the Company and a Subsidiary or between two Subsidiaries.

(II) The Participant's cessation as an Employee shall not be deemed to occur by reason of the Participant's being on a bona fide leave of absence from the Company or a Subsidiary approved by the Company or Subsidiary otherwise receiving the Participant's Services, provided such leave of absence does not exceed six (6) months, or if longer, so long as the Employee retains a right to reemployment with the Company or Subsidiary under an applicable statute or by contract. For these purposes, a leave of absence constitutes a bona fide leave of absence only if there is a reasonable expectation that the Employee will return to perform Services for the Company or Subsidiary. If the period of leave exceeds six (6) months and the Employee does not retain a right to reemployment under an applicable statute or by contract, the employment relationship is deemed to terminate on the first day immediately following such six (6) month period. For purposes of this sub-section (ii), to the extent applicable, an Employee's leave of absence shall be interpreted by the Committee in a manner consistent with Treasury Regulation Section 1.409A-1(h)(1).

(III) If, as a result of a sale or other transaction, the Subsidiary for whom Participant is employed (or to whom the Participant is providing Services) ceases to be a Subsidiary, and the Participant is not, following the transaction, an Employee of the Company or an entity that is then a Subsidiary, then the occurrence of such transaction shall be treated as the Participant's Termination of Service caused by the Participant being discharged by the entity for whom the Participant is employed or to whom the Participant is providing Services.

(IV) Except to the extent Section 409A of the Code may be applicable to an Award, and subject to the foregoing paragraph of this sub-section, the Committee shall have discretion to determine if a Termination of Service has occurred and the date on which it occurred. In the event that any Award under the Plan constitutes Deferred Compensation (as defined in Section 2.6 hereof), the term Termination of Service shall be interpreted by the Committee in a manner consistent with the definition of Separation from Service as defined under Code Section 409A and under Treasury Regulation Section 1.409A-1(h)(ii). For purposes of this Plan, a Separation from Service shall have occurred if the Bank and Participant reasonably anticipate that no further Services will be performed by the Participant after the date of the Termination of Service (whether as an employee or as an independent contractor) or the level of further Services performed will not exceed 20% of the average level of bona fide Services in the 36 months immediately preceding the Termination of Service. If a Participant is a Specified Employee, as defined in Code Section 409A and any payment to be made hereunder shall be determined to be subject to Code Section 409A, then if required by Code Section 409A, such payment or a portion of such payment (to the minimum extent possible) shall be delayed and shall be paid on the first day of the seventh month following Participant's Separation from Service.

(V) With respect to a Participant who is a Director, cessation as a Director will not be deemed to have occurred if the Participant continues as a director emeritus or advisory director.

8.33 Voting Securities means any securities which ordinarily possess the power to vote in the election of directors without the happening of any pre-condition or contingency.

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8.34 Whole Board means the total number of Directors that the Company would have if there were no vacancies on the Board at the time the relevant action or matter is presented to the Board for approval.

**ARTICLE 9 - CONSTRUCTION**

**Section 9.1** In the Plan, unless otherwise stated or the context otherwise requires, the following uses apply:

- (a) actions permitted under the Plan may be taken at any time and from time to time in the actor's reasonable discretion;
- (b) references to a statute shall refer to the statute and any successor statute, and to all regulations promulgated under or implementing the statute or its successor, as in effect at the relevant time;
- (c) in computing periods from a specified date to a later specified date, the words from and commencing on (and the like) mean from and including, and the words to, until and ending on (and the like) mean to, but excluding ;
- (d) references to a governmental or quasi-governmental agency, authority or instrumentality shall also refer to a regulatory body that succeeds to the functions of the agency, authority or instrumentality;
- (e) indications of time of day means Massachusetts time;
- (f) including means including, but not limited to ;
- (g) all references to sections, schedules and exhibits are to sections, schedules and exhibits in or to this Plan unless otherwise specified;
- (h) all words used in this Plan will be construed to be of such gender or number as the circumstances and context require;

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(i) the captions and headings of articles, sections, schedules and exhibits appearing in or attached to this Plan have been inserted solely for convenience of reference and shall not be considered a part of this Plan nor shall any of them affect the meaning or interpretation of this Plan or any of its provisions;

(j) any reference to a document or set of documents in this Plan, and the rights and obligations of the parties under any such documents, shall mean such document or documents as amended from time to time, and any and all modifications, extensions, renewals, substitutions or replacements thereof; and

(k) all accounting terms not specifically defined herein shall be construed in accordance with GAAP.

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