

# Kinyan Capital Management LLC

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This Brochure provides information about the qualifications and business practices of Kinyan Capital Management LLC (“**Kinyan Capital**”). If you have any questions about the contents of this Brochure, please contact Kinyan Capital’s Chief Compliance Officer at 212-527-8152 or by e-mail at [ali@kinyancapital.com](mailto:ali@kinyancapital.com)

The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission (“**SEC**”) or by any state securities authority.

Registration of an investment adviser does not imply that Kinyan Capital or any of its principals or employees possesses a particular level of skill or training in the investment advisory business or any other business.

Additional information about Kinyan Capital Management LLC is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

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**Item 2 - Material Changes**

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Because this is our first brochure prepared using the SEC's revised Form ADV Part 2A, we have no material changes in prior filings to report.

**Item 3 - Table of Contents**

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**Item 4 - Advisory Business**

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Kinyan Capital Management LLC a Delaware limited liability company ("**Kinyan Capital**", or "**we**") began operations in 2004. We currently offer discretionary investment advisory services to one private investment fund, Kinyan Capital, LP (a "**Fund**" or "**Client**"). We are the Fund's investment adviser and our affiliate is the general partner to the Fund. The Fund is our only current Client. However, we may in the future organize and/or serve as investment manager and/or general partner to other investment vehicles and/or separately managed accounts.

We manage the Fund pursuant to the objectives specified in the materials by which the Fund offers its ownership interests to investors. We, as the Fund's general partner, determine the objectives for the Fund. Our agreements with the Fund generally impose no limits on the types of securities or other instruments in which the Fund may invest, the types of positions they may take, the concentration of their investments by sector, industry, fund, country, class or otherwise, the amount of leverage they may employ or the number or nature of short positions they may take. The Fund's investors do not have the right to specify, restrict, or influence their Fund's investment objectives or any investment or trading decisions.

As of February 2013, we managed Client assets, on a discretionary basis, of approximately \$18,000,000 which is the Fund's aggregate gross asset value.

Bruce Levitt is the sole owner and sole managing member of Kinyan Capital.

Allison Rosenfeld is the Chief Compliance Officer ("**CCO**").

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**Item 5 - Fees and Compensation**

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**Management Fees**

For the service we provide to the Fund, we generally receive, as to each limited partner in the Fund, a quarterly management fee equal to a specified percentage (the "**quarterly management fee rate**") times the limited partner's capital account balance as of the beginning of the relevant calendar quarter. The quarterly management fee rate for our Fund is approximately 2.0% on an annualized basis. These management fees are generally calculated and deducted by Kinyan Capital at the beginning of each calendar quarter. While our management fees are not generally negotiable, we may vary the management fees as to particular limited partner by separate agreement, without notice to the other limited partners.

**Performance Allocations**

As the general partner of the Fund, we are also generally entitled to receive a special allocation (an "**Incentive Allocation**"), as to each limited partner in that Fund, generally equal to 20% of the net profit (including both realized and unrealized gains and losses) that would otherwise be allocated to that limited partner during the relevant calendar year. The Incentive Allocation is subject to a "high water mark" procedure, pursuant to which an Incentive Allocation will be made as to a limited partner only to the extent the total net profit allocated to that limited partner exceeds total net loss allocated to him or her or it, adjusted for withdrawals. Once made, however, an Incentive Allocation will not be reduced by losses incurred in later periods.

**Expenses**

Kinyan Capital will be responsible for, and will pay, all overhead expenses of an ordinary and recurring nature such as rent, supplies, secretarial expenses, stationery, charges for furniture and fixtures, employee insurance, payroll taxes, research expenses (including research-related travel) and compensation of employees. The Fund will bear all other expenses including legal, accounting, (including third-party accounting services), auditing, investment expenses such as commissions, custodial fees, bank service fees and other expenses related to the purchase, sale or transmittal of Fund assets.

For a more detailed discussion of brokerage and transaction costs, investors are directed to “Item 12: Brokerage Practices.”

**Prepayment of Fees**

As noted above, the Fund pays management fees to us quarterly in advance. Fund investors are generally allowed to withdraw capital as of the end of a calendar quarter, at which time there generally will be no prepaid fees. We are not required to refund any portion of our management fee if the Fund allows an investor to withdraw or redeem as of a time other than a calendar quarter-end.

If we were to terminate our status as general partner of the Fund other than as of the end of a quarter, we would refund to the Fund a portion of the management fee that was paid at the beginning of the termination quarter, prorated based on the number of days remaining in that quarter.

**Item 6 – Performance-Based Fees**

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The Fund allocates to us (via Kinyan Capital, LLC), a portion of the appreciation in value of investors’ investments, subject to a “high water mark” procedure, as described above in “Item 5: Fees and Compensation.” We do not currently manage any accounts that do not provide for performance-based incentive allocations. While we have the right to waive incentive allocations as to particular investors in the Fund, we manage the Fund’s assets as an undivided pool, so any such waiver would not give rise to incentives to favor any particular account over another. Our potential to receive incentive allocations, and the fact that we will not have to refund any such allocations if the Fund later experience losses may, however, create an incentive for us to make investments that are riskier or more speculative than would otherwise be the case.

**Item 7 - Types of Clients**

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We currently provide investment advice to one Fund. The Fund is a privately offered investment Fund that is not regulated under the U.S. Investment Company Act of 1940, as amended. The Fund imposes minimum investor qualification standards and minimum investment requirements. The minimum initial investment is \$5,000,000. Interests in the Fund generally will be sold only to persons who are “accredited investors” as defined in Regulation D of the Securities Act of 1933, as amended and “qualified purchasers” under section 2(a)(51) of the Investment Company Act of 1940, as amended. We may, in our sole discretion, admit limited partners, or accept additional capital contributions from existing limited partners at any time.

**Item 8 - Methods of Analysis, Sources of Information, Investment Strategies, Risk of Loss**

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***Investment Strategy***

The Fund has the ability to invest in equities, options, new issues, currencies, commodities, bonds and futures as both potential longs and shorts. These securities are selected to reflect valuations below or above the intrinsic value as determined by Bruce Levitt.

We will seek to maximize long-term absolute gains that exceed those of financial sector market averages and to minimize risk and volatility of returns through security selection and a long/short investment strategy. We will seek to construct a portfolio of the best long and short ideas presented by the market. We will seek out investment opportunities in equity and fixed income markets around the world primarily in the financial services sector. In order to manage risk, we will monitor, among other things, the portfolio's gross exposure, net exposure, liquidity and position sizes. An additional risk consists of various regulators and the changes they consider or impose, which can impact the profitability of the Fund's portfolio investments and the value of the investment.

***Risk of Loss***

The following are the material risks involved in our investment strategy. This list does not purport to be a complete enumeration or explanation of the risks involved in such strategy.

All investments involve the risk of loss, including (among other things) loss of principal, a reduction in earnings (including interest, dividends and other distributions), and the loss of future earnings. These risks include market risk, interest rate risk, issuer risk, and general economic risk. Although we manage the assets in a manner consistent with risk tolerances, there can be no guarantee that our efforts will be successful. Investing in securities involves a risk of loss that investors should be prepared to bear.

***Lack of Diversification***

It is anticipated that the Fund's portfolio will be invested primarily in equities and the Fund may take significant positions in companies primarily in the financial services sector. Further, the Fund is not required to be diversified among a wide range of issuers, industries, geographic areas or types of securities. Therefore, the investment portfolio of the Fund may be subject to more rapid change in value than would be the case if the Fund were required to maintain a wide diversification among issuers, industries, investment areas, types of securities and issuers.

***Reliance on Management and Key Personnel***

Our Fund's success depends on the ability of Bruce Levitt to develop and implement investment strategies to achieve the Fund's investment objectives. Should Mr. Levitt terminate his relationship with us, die or become otherwise incapacitated for any period of time, our Client could experience losses.

***Effect of General Economic Conditions***

The success of our investment strategies may be affected by general economic and market conditions, such as interest rates, availability of credit, inflation rates, economic uncertainty, changes in laws, developments in governmental regulation and national and international political circumstances. These factors may affect the success of the businesses in which our

Client portfolio companies are engaged, as well as the markets for securities in those Client portfolio companies. Unexpected volatility or illiquidity could result in Client losses.

***Small to Medium Capitalization Companies***

We may invest a portion of our Client's assets in the stocks of companies with small to medium-sized market capitalizations of less than \$1 billion. While we believe these investments often provide significant potential for appreciation, those stocks, particularly smaller-capitalization stocks, involve higher risks in some respects than do investments in stocks of larger companies. For example, prices of such stocks are often more volatile than prices of large-capitalization stocks.

***Short-Sales***

In implementing our investment strategy, we intend to effect short sales. Short sales can, in certain circumstances, substantially increase the impact of adverse price movements on the Client's portfolio. A short sale involves the risk of a theoretically unlimited increase in the market price of the particular investment sold short, which could result in an inability to cover the short position and a theoretically unlimited loss. There can be no assurance that securities necessary to cover a short position will be available for purchase.

***Special Situations and Distressed Securities***

The Fund may invest in companies involved in acquisition attempts or tender offers or in companies involved in work-outs, liquidations, spin-offs, reorganizations, bankruptcies and similar transactions. There exists the risk that the contemplated transaction either will be unsuccessful, take considerable time or will result in a distribution of cash or a new security the value of which will be less than the purchase price to the Fund of the security or other financial instrument in respect of which such distribution is received.

***Non-U.S. Securities***

Investing in securities of non-U.S. governments and companies which are generally denominated in non-U.S. currencies and utilization of options on non-U.S. securities involves certain considerations comprising both risks and opportunities not typically associated with investing in securities of the U.S. Government or U.S. companies. These considerations include changes in exchange rates and exchange control regulations, political and social instability, expropriation, imposition of foreign taxes, less liquid markets and less available information than is generally the case in the U.S., higher transaction costs, less government supervision of exchanges, brokers and issuers, greater risks associated with counterparties and settlement, difficulty in enforcing contractual obligations, lack of uniform accounting and auditing standards and greater price volatility.

***Leverage***

We may utilize futures, options, other securities, and instruments that by construct contain inherent leverage. While the use of margin borrowing can substantially improve the return on invested capital, such use may also increase the adverse impact to which the portfolio of the Fund may be subject. Under certain circumstances, a broker-dealer with which the Fund is transacting may demand an increase in the collateral that secures the Fund's obligations

and if the Fund were unable to provide additional collateral, the broker-dealer could liquidate assets held in the account to satisfy the Fund's obligations to the broker-dealer.

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**Item 9 - Disciplinary Information**

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Neither we nor any of our management personnel are subject to or have in the past been subject to any criminal or civil action in any domestic or foreign court, and neither we nor any of our management personnel have been subject to any administrative proceedings before the SEC or any other state, federal or foreign financial regulatory authority.

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**Item 10 - Other Financial Industry Activities and Affiliations**

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Neither Kinyan Capital nor any of our employees have any relationships or arrangements with other financial service companies that pose material conflicts of interest.

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**Item 11 - Code of Ethics, Participation/Interest in Client Transactions, Personal Trading**

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**Code of Ethics**

We have adopted a Code of Ethics and Employee Investment Policy (together the “**Code**”) for the purpose of instructing our employees about their ethical obligations and to provide rules for their personal securities transactions. We and our personnel owe a duty of loyalty, fairness and good faith towards our Client, and an obligation to adhere not only to the specific provisions of the Code but to the general principles that guide the Code.

The Code covers a range of topics that include: general ethical principles, reporting personal securities trading, exceptions to reporting securities trading, reportable securities, initial public offerings and private placements, reporting ethical violations, distribution of the Code, review and enforcement processes. We will provide a copy of the Code to any investor upon request.

**Privacy Policy**

We are committed to maintaining the confidentiality, integrity and security of our investor's personal information. It is our policy to collect only information necessary or relevant to our management business and use only legitimate means to collect such information. We do not disclose any non-public personal information about our investors or former investors to anyone except for servicing and processing transactions and as required by law. We restrict access to non-public personal information about investors to those employees with a legitimate business need for the information. We maintain security practices, physical, electronic, and procedural safeguards to guard Investor's non-public personal information.

Upon request, we will provide you with a copy of our privacy policy.

**Participation/Interest in Client Transactions & Personal Trading**

Our associated persons may hold, or buy or sell for their own accounts, the same securities that we may cause our Client to hold, or buy or sell. Our associated persons are required, however, to seek to ensure that they do not personally benefit from the short-term market



effects of their recommendations to Clients, and we regularly monitor their personal transactions. We have policies and procedures in place to ensure that our employees are aware of the rules regarding material non-public information and insider trading. Our employees may also buy or sell specific securities for their own accounts based on personal investment considerations, without regard to whether we believe it is appropriate for our Clients to buy or sell those securities.

## Item 12 - Brokerage Practices

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As fiduciary to the Fund, we require that the Fund's interests must always be placed first and foremost, and our trading practices and procedures prohibit unfair trading practices and seek to disclose and avoid any actual or potential conflicts of interests or resolve such conflicts in the Fund's favor. We have adopted the following policies and practices to meet Kinyan Capital's fiduciary responsibilities and to ensure our trading practices are fair to the Fund and that the Fund is not advantaged or disadvantaged over any other.

We are authorized to determine the broker or dealer that the Fund will use for each securities transaction for the Fund.

In selecting brokers and negotiating commission rates, Kinyan Capital will take into account the financial stability and reputation of brokerage firms, the brokerage, research and related services furnished or paid for by such brokers and the referral of investors, although the Fund may not, in any particular instance, be the direct or indirect beneficiary of the research or related services provided. Research and related services furnished or paid for by brokers may include, but are not limited to:

- written information and analyses concerning specific securities, companies or sectors;
- market, financial and economic studies and forecasts;
- discussions with research personnel;
- financial publications; and
- statistical and pricing services along with hardware, software, databases and other technical and telecommunication services, lines and equipment utilized in the investment management process (including updates, improvements, repairs and replacements), as well as research-related travel.

### “Soft Dollars”

Although unlikely, we may use research and related services obtained by the use of commissions arising from the Fund's portfolio transactions in its other investment activities. Certain of the foregoing commission arrangements may be outside the parameters of Section 28(e) of the Securities Exchange Act of 1934, as amended, which permits use of commissions or “**soft dollars**” to obtain “**research and execution**” services.

*Section 28(e) Safe Harbor.* A federal statute, Section 28(e) of the Securities Exchange Act of 1934, as amended, recognizes the potential conflict of interest involved in the use by an investment manager (such as Kinyan Capital ) of soft dollars to pay for various expenses but provides a “safe harbor” from breach of fiduciary duty claims if certain conditions and requirements are met. Under the safe harbor, soft dollars may be used to acquire “research” and “brokerage” services and products for which our Fund would not otherwise be required to pay. Using soft dollars to pay for services and products other than research and brokerage is not protected by the safe harbor, but is subject to the applicable standards of fiduciary duty under the Investment Advisers Act of 1940 (the “Advisers Act”), as

applicable. Similarly, use of non-commission soft dollars or otherwise failing to satisfy procedural elements of the Section 28(e) safe harbor are not protected but are not necessarily prohibited.

In the past fiscal year, Kinyan Capital used soft dollar arrangements to pay for research and data services only.

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**Item 13 - Review of Accounts**

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***Review of Accounts***

We review the Fund on a continual basis to assure conformity with investment objectives and guidelines. We engage in active management for the Fund and, accordingly, review our transactions, positions and cash balances on a daily basis.

***Reporting***

We will distribute an audited financial report for the Fund with respect to the previous fiscal year to all investors in the Fund within 120 days of the Fund's year-end. In addition, the Fund will generally distribute unaudited performance reports on a quarterly basis.

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**Item 14 - Client Referrals and Other Compensation**

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Other than the products and services that we receive from broker-dealers (described above under "Item 12: Brokerage Practices"), we do not receive any economic benefits from third parties in connection with the provision of investment advice to our Client. We do not currently directly or indirectly compensate any person for investor referrals.

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**Item 15 - Custody**

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We will comply with the requirements of Rule 206(4)-2 of the Advisers Act with regards to custody of assets of the Fund ("**Custody Rule**").

We currently use Pershing LLC as our prime broker and as our custodian. Annually, upon completion of the Fund's annual audit, we will distribute the audited financials along to the limited partners in the Fund.

The CCO shall ensure that the Fund's audited financials are delivered to all limited partners (within 120 days of the fiscal year end).

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**Item 16 - Investment Discretion**

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We generally have discretionary authority to determine, without obtaining specific consent, securities to be bought or sold, the amount of securities to be bought or sold, broker-dealer to be used and the commission rates paid. Any limitations on our investment authority are included in the Fund's investment management agreement.

**Item 17 - Voting Client Securities**

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To the extent Kinyan Capital has been delegated proxy voting authority on behalf of the Client, Kinyan Capital will attempt to vote on each proxy in the best interests of the Fund, after careful review of each proposal. Kinyan Capital will maintain voting records on-site.

**Item 18 - Financial Information**

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Kinyan Capital has no financial commitment that impairs its ability to meet contractual and fiduciary commitments to its Client, and has not been the subject of a bankruptcy proceeding.