

# Techquity Capital Management, LLC

## SEC Form ADV Part 2A

### Firm Brochure

805 Las Cimas Parkway, Suite 240

Austin, TX 78746

Phone: 512-609-1810

Website: <http://www.techquitycap.com/>

Form ADV, Part 2A (the “Brochure”) provides information about the qualifications and business practices of Techquity Capital Management, LLC (“Adviser” or “the Firm”). If you have any questions about the contents of this Brochure, please contact us at the above telephone number or via email at [mroche@techquitycap.com](mailto:mroche@techquitycap.com). The information in this Brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

The Firm is a registered investment adviser. Registration of an investment adviser does not imply any level of skill or training. The oral and written communications of an adviser provide you with information about which you determine to hire or retain an adviser.

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

## **Item 2 – Material Changes**

This Brochure was prepared for the Adviser's initial registration with the SEC. In the future, this item will discuss only specific material changes that are made to the Brochure and provide clients with a summary of such changes.

### Item 3 -Table of Contents

Item 2 – Material Changes.....	2
Item 3 – Table of Contents .....	3
Item 4 – Advisory Business .....	4
Item 5 – Fees and Compensation .....	5
Item 6 – Performance-Based Fees and Side-By-Side Management .....	7
Item 7 – Types of Clients .....	8
Item 8 – Methods of Analysis, Investment Strategies and Risk of Loss .....	9
Item 9 – Disciplinary Information .....	12
Item 10 – Other Financial Industry Activities and Affiliations .....	13
Item 11 – Code of Ethics, Participation or Interest in Client Transactions and Personal Trading .....	14
Item 12 – Brokerage Practices .....	15
Item 13 – Review of Accounts .....	16
Item 14 – Client Referrals and Other Compensation .....	17
Item 15 – Custody.....	18
Item 16 – Investment Discretion.....	19
Item 17 – Voting Client Securities .....	20
Item 18 – Financial Information.....	21

#### **Item 4 – Advisory Business**

Techquity Capital Management, LLC is a Delaware limited liability company that provides investment management services to its Clients (as defined below). The Adviser was formed in May 2008 and is headquartered in Austin, Texas. The Firm's principal owners are Abha Divine and Mark Roche.

As of March 31, 2018 the Adviser had regulatory assets under management of \$ 233,065,616, all of which were on a discretionary basis.

The Adviser provides investment advisory services solely to a private investment fund (the "Fund", or collectively, the "Funds") with respect to the acquisition, development and commercialization of intellectual property ("IP") pursuant to operating agreements between the Adviser, the Funds and the general partner entities of each Fund (the "GP Entity" or "GP Entities"). For the purposes of this Brochure, "Client" includes the Funds and the underlying investors in the Fund, ("Client Investors"), unless otherwise specified.

The Adviser provides investment supervisory services to each Fund pursuant to investment management or portfolio management agreements (each a "Governing Document"). The advisory services are tailored to achieve the Clients' investment objectives.

The terms of the advisory services to be provided to a Fund, including any restrictions on investments of certain types of securities, are established by the Adviser, as modified by negotiations with investors in the applicable Fund, and set forth in such offering documents, organizational documents and/or other documentation received by each investor prior to the investment in such Fund. Once invested in a Fund, the investors cannot impose restrictions on the types of securities in which such Fund may invest.

Much of the disclosure in this brochure is general in nature and, because the Adviser's clients are Funds, is subject to the specific terms and conditions of a Fund investment included in the Fund's organizational and offering documents. In addition, investors in the Funds are generally not clients of the Adviser unless they were to establish a separate advisory relationship with the Adviser.

## **Item 5 – Fees and Compensation**

The fees and compensation payable to the Adviser are negotiable and vary among its Clients but are generally as follows:

### **1. Management Fee**

With respect to the Funds, the Adviser typically receives a semi-annual asset-based management fee calculated as a percentage of each Investor's capital account, payable in advance. The management fee is generally between 1% and 2%. Management fees are typically funded with capital contributions drawn for such purpose.

### **2. Performance-based Fees**

In addition, the GP Entity typically receives certain allocations and distributions calculated and charged based on a share of capital gains on or capital appreciation of the assets of such Fund, as negotiated and determined at the time such Fund is established and as set forth in its Governing Documents. These allocations and distributions are commonly known as "carried interest". Carried interest is typically paid by the Funds only to the extent net income to the Fund exceeds the Fund's invested capital plus a priority return on the Fund's investments calculated at a rate of 4% or 8% per annum compounded annually ("Priority Return").

Carried interest distributions generally will be distributed by the Adviser from time to time upon the disposition of investments by a Fund and are distributed in accordance with the terms of the applicable Governing Document.

Management fees and carried interest distributions are determined by the applicable Governing Documents. However, the Adviser has discretion to reduce or waive Management Fees and/or carried interest distributions.

### **3. Fund Expenses**

The Adviser generally is responsible for its own expenses including employees, rent, utilities and other similar items. The Funds are typically responsible for all other including: (i) routine expenses of the Fund, including legal, auditing, fund administrator, consulting and financing fees, and expenses associated with the Fund's financial statements and tax returns and other administrative expenses of the Fund; (ii) all out-of-pocket expenses (including reasonable travel expenses) incurred in connection with the acquisition, development, commercialization, holding, or disposing of any Investment, including potential acquisitions or transactions relating to Investments that are ultimately not made; (iii) all litigation-related and indemnification expenses; (iv) all legal and accounting expenses for organizing the Funds up to a negotiated amount listed in the Governing Documents; (v) any placement agent expenses (provided that the amount of any placement agent expenses shall be offset against the Management Fee); (vi) all expenses incurred by the Funds in connection with a defaulting limited partner; (vii) all expenses incurred with any restructuring or amendments to the

constituent documents of the Funds and related entities (excluding any changes to the documents of the General Partner which are solely being made to accommodate concerns or modifications that the General Partner alone is requiring); and (viii) all expenses incurred with the formation of an alternative investment vehicle or parallel fund (which shall be borne solely by limited partners participating in such alternative investment vehicle or parallel fund).

The Adviser has the right to perform corporate and other services for the Fund and to receive compensation for those services. The Funds will incur brokerage and other transaction costs which are more fully discussed in Item 12.

The specific manner in which fees are charged by the Adviser is established in each client's written Governing Document, the terms of which may differ from those described above. The Adviser may negotiate a specific fee arrangement with a particular client pursuant to a side letter or other account agreement.

## **Item 6 – Performance-Based Fees and Side-By-Side Management**

In some cases, including as described in Item 5, the Adviser or its affiliates have entered into performance fee arrangements with qualified clients; such fees are subject to individualized negotiation with each such client. The Adviser will structure any performance or incentive fee arrangement subject to Section 205(a)(1) of the Investment Advisers Act of 1940 (the "Advisers Act") in accordance with the available exemptions thereunder, including the exemption set forth in Rule 205-3.

As a fiduciary, the Adviser recognizes that it must treat all its clients fairly and must refrain from favoring one Client's interests (or the Adviser's interests) ahead of another Client(s). Performance-based fee arrangements may create an incentive for the Adviser to recommend investments which may be riskier or more speculative than those which would be recommended under a different fee arrangement. Such fee arrangements also create an incentive to favor higher fee-paying accounts over other accounts in the allocation of investment opportunities. The Adviser attempts to address any material conflicts through full and fair disclosure in the applicable Governing Documents and this brochure. In addition, the Adviser has procedures designed to ensure that all clients are treated fairly and equally over time, and to prevent this conflict from influencing the allocation of investment opportunities among clients

## **Item 7 – Types of Clients**

The Adviser provides investment management services to its clients, the Funds. Investors in the Funds may include certain qualified individuals, corporate pension and profit-sharing plans, charitable institutions, foundations, endowments, municipalities, private investment funds, trust programs, and other U.S. and international institutions. Funds typically have a minimum investment amount. This amount, which may vary from Fund to Fund, may be waived by the Fund's general partner.



## Item 8 – Methods of Analysis, Investment Strategies and Risk of Loss

The Adviser's investment strategy is to invest in as described in Item 4.

The Adviser's investment focuses on acquisition, development, and commercialization of intellectual property assets (each intellectual property asset is an "Investment", collectively the "Investments") (e.g. patents, related software and technology, etc.) across a broad range of markets. Such assets are often under-utilized by their owners because they extend beyond the current core business or expertise of the owners. The nature of such assets often allows them to be deployed in multiple markets and with a variety of firms when effectively managed and commercialized. The Adviser acquires assets into the portfolio and then enhances those assets through combinations and extensions; the Adviser expects that the Fund will combine the security of an asset-based investment with the growth opportunities inherent in market delivery of innovation related to the core focus areas of communications, media, and computing ("CMC").

The Adviser's business operations extend from asset acquisition and development to portfolio analysis and valuation to commercialization and execution; each stage is pursued with an eye toward positioning the asset(s) for eventual market deployment and commercialization via specific transaction models and return profiles. Fundamental to the investment strategy is a disciplined and multi-faceted focus on creating value by acquiring high quality assets that have the potential for wider deployment and use in the market.

Investing involves risk of loss that clients should be prepared to bear. These investments are not suitable for all investors and are intended for sophisticated investors who can accept the risks associated with the Adviser's investment program. Among the risks to be considered are the following:

**Effective Identification and Exploitation of Investments.** Identification and exploitation of suitable Investments depends on the ability of the Principals to assess the market and economic contribution of acquired Investments; this assessment involves a high degree of uncertainty. No assurance can be given that the Principals will be able to locate suitable commercialization opportunities for all of the Funds' Investments.

**Long-Term Investments.** Even if the investment strategy of the Funds proves successful, it is unlikely to produce a realized return to the limited partners for a number of years.

**Lack of Portfolio Liquidity.** The funds' portfolio of Investments will consist of Investments in IP. In addition, there can be no assurance that any such Investment will be able to benefit from any IP laws or that laws may not change the rights afforded an IP owner. The marketability and value of each such Investment will depend upon many factors beyond the Adviser's control. At the time the Funds acquires an Investment, it may lack one or more key attributes (e.g., proven technology, marketability, or patent or IP protection) necessary for success. There may be no readily available market for the Funds' Investments, some of which will be difficult to value, and the development and commercialization of an Investment by the Funds may be prohibited or delayed many years from the date of initial investment for legal

and/or regulatory reasons. In other cases, the Investments may require a substantial length of time to liquidate. Consequently, there is a significant risk that the Funds will be unable to realize its investment objectives by sale or other disposition of its Investments at attractive prices, or will otherwise be unable to complete any liquidation strategy with respect to its Investments. These risks can be further increased by changes in the financial condition of the industry in which such Investment is targeted or business prospects of an Investment, changes in national or international economic conditions, and changes in laws, regulations, fiscal policies affecting such investment.

**Unproven Technology.** The Funds may acquire, develop and commercialize Investments that have not been scientifically established or do not have proven market application. These Investments may not have revenues and may not be profitable. They may require considerable additional capital to develop, commercialize and license. Further, the technologies and markets for such Investments may not develop as anticipated, even after substantial expenditures of capital.

**The IP Assets Acquired by the Funds.** The Funds may rely on a combination of intellectual property rights, contractual rights and technical measures to protect its Investments. There can be no assurance that any Investment will not be rendered obsolete or non-competitive by new intellectual property or invention, emergence of previously unknown prior art, or lack of adequate protection by intellectual property laws. In addition, contractual rights could be breached and the Funds may have inadequate remedies for any breach. If for any of the above reasons the Funds' intellectual property is invalidated or misappropriated, it would harm the Funds' ability to protect and commercialize its Investment.

**Dependence upon Patent Rights.** Realizations relating to Investments may depend upon the existence of valid and enforceable claims of registered and/or issued patents in the U.S. or elsewhere throughout the world.

Others may have filed patent applications or received patents that conflict with patents or patent applications owned, filed, or licensed by the Funds in connection with an Investment, either by identification of an earlier invention date of the same innovation or invention claims that could supersede those owned by or licensed to the Funds. In addition, the Funds may not be aware of all patents or patent applications that may impact an Investment. Any conflicts resulting from third party patent applications and patents could significantly reduce the coverage of the Fund's patents and limit the Fund's ability to obtain meaningful patent protection.

Even if the Fund seeks to maintain, enforce or defend patent rights in connection with an Investment, it may not be successful. The failure to successfully maintain, enforce or defend such rights would have a material adverse effect on the Fund. The Funds are likely to incur substantial litigation costs to assert its interest in an Investment or contractual rights.

**Lack of Diversification; Industry Specific Risks.** To the extent the Fund concentrates its Investments in a particular IP asset class, sector or region, its Investments will become more susceptible to fluctuations in value resulting from adverse business or economic conditions

affecting that particular technologies, sectors or regions. As a consequence, the aggregate return of the Fund may be adversely affected by the unfavorable performance of one or a small number of assets, sectors or regions in which the Fund has invested. Moreover, investments will be concentrated in the technology industry and are not expected to provide diversification across industries. Clients should be aware and seek diversification by including other types of investments in their portfolio.

**Non-U.S. Investments.** The Funds may invest in a number of different countries. Investments may be acquired, developed or commercialized in countries or economies which may prove unstable. Depending on the country in which an Investment or license is located, there may exist the risk of political or social instability and adverse political developments, including nationalization, confiscation without fair compensation or war, illiquidity, price volatility, market manipulation and different bankruptcy laws and practices. In the case of Investments that are not valued in U.S. dollars, any fluctuation in currency exchange rates will affect the value of such Investments and the returns ultimately achieved by the Funds.

Laws and regulations of other countries may impose restrictions that are not present in the United States. A non-U.S. Investment may require significant government approvals under corporate, securities, intellectual property, exchange control, foreign investment and other similar laws and may require financing and structuring alternatives that differ significantly from those customarily used in the United States. In addition, some governments from time to time impose restrictions intended to prevent capital flight, which may, for example, involve punitive taxation (including high withholding taxes) on certain transfers or the imposition of exchange controls making it difficult or impossible to exchange or repatriate the local currency. In addition, the repatriation of currency and other restrictions may make it impracticable for the Funds to receive Investment proceeds in U.S. dollars, and therefore negatively impact the returns to the funds' investors.

No assurance can be given that a particular political, economic or social climate or that particular financial, legal or regulatory risks might not adversely affect an investment by the Funds.

## **Item 9 – Disciplinary Information**

The Adviser and its management persons have not been a party to any legal or disciplinary events that would be material to a client's or prospective client's evaluation of its investment advisory business or the integrity of its management.

## **Item 10 – Other Financial Industry Activities and Affiliations**

In connection with forming the Funds, the Adviser also formed an affiliated general partner which receives the compensation described in Item 5. The Adviser maintains a policy described in Item 11 to address any actual or potential conflicts of interest arising from its management of the Funds or sponsoring the affiliated general partner of the Funds.

## **Item 11 – Code of Ethics, Participation or Interest in Client Transactions and Personal Trading**

The Adviser has adopted a Code of Ethics (the “Code”) pursuant to Rule 204A-1 under the Advisers Act, as amended. Each member, officer, director and employee of The Adviser (collectively, “Employees”) is subject to the Code. The Adviser holds its Employees to a high standard of integrity and business practices that reflects its fiduciary duty to Clients. In serving its Clients, The Adviser strives to avoid conflicts of interest or the appearance of conflicts of interest in connection with the personal trading activities of its Employees and Client securities transactions. When persons covered by the Code engage in personal securities transactions, they must adhere to the following general principles and the Code’s specific provisions: (a) at all times the interests of Client must be paramount; (b) personal transactions must be conducted in a manner that is consistent with the Code to avoid any actual or potential conflict of interest; and (c) no inappropriate advantage should be taken of any position of trust and responsibility. Employees covered by the Code have certain trading restrictions and reporting obligations of their personal securities transactions. Each Employee is provided with a copy of the Code and must certify that he or she has received it and has complied with its provisions on an annual basis. In addition, any Employee who becomes aware of any potential violation of the Code is obligated to report the potential violation to the Chief Compliance Officer.

The Adviser and its affiliates may directly or indirectly own an interest in private investment funds, including a Funds managed by the Adviser. The fact that the Adviser, its employees and other related persons may have a financial ownership interest in a Funds creates a potential conflict which could cause the Firm to make different investment decisions than if they did not have a financial ownership interest.

The Adviser has also adopted policies and procedures relating to gifts and entertainment, political contributions and other potential material conflicts of interest. The Adviser generally will allocate investment opportunities among its various clients on a fair and equitable basis, consistent with its fiduciary obligations and the governing documents for the relevant fund.

The Adviser and its affiliates, principals and employees may carry on investment activities for their own account and for family members that may differ from advice given to, or securities recommended or bought for, the Funds or other clients, even though their investment objectives may be the same or similar. The Adviser and its affiliates may from time to time cause the Funds to enter into transactions and/or arrangements involving actual or potential conflicts of interest. The Adviser and its affiliates generally review any such transactions or arrangements involving material conflicts of interest and take such actions as they deem appropriate or necessary under the circumstances in an attempt to ensure that the overall terms of such transactions or arrangements are fair and equitable under the circumstances.

## **Item 12 – Brokerage Practices**

The Funds invest primarily in IP interests that are not offered or transacted through a broker dealer. In limited circumstances the Funds may invest in publicly-traded or other securities, which trades may be entered and executed through one or more broker dealers. In instances where the firm utilizes a broker dealer to transact in such securities, the Firm will ensure best execution and take all reasonable steps to obtain the best possible result, taking into account price, costs, speed, likelihood of execution and settlement, size, nature or any other consideration relevant to the execution of the order. In addition, when the private portfolio companies that the Funds invest in become publicly listed, the Funds may utilize broker-dealers in exiting their investments.

At this time, the Adviser does not engage in “soft dollar” arrangements with broker dealers.

### **Item 13 – Review of Accounts**

The Adviser generally monitors the financial and operating progress of the IP assets it invests on a current basis against plans and budgets, with more formal reviews as necessary. Such reviews will be conducted by one or more of the Adviser's employees. Funds are audited on a yearly basis by a public accountant.

Certain events may require additional reviews. Such events include a changing technology landscape, new patents awarded to competitors, changes in IP law or inadequate patent protection, or any other shifting economic, market or political conditions.

Investors in the Funds generally receive quarterly and annual reports and annual audited financial statements. Each of the Funds' investors will receive annual audited financial statements (prepared in accordance with U.S. GAAP) and unaudited quarterly statements of the Funds. Investors in each Fund will receive tax information in connection with the preparation of their federal income tax returns. All reports to investors to the Funds are in writing. The Adviser may provide additional information to certain investors that are not distributed to other investors in a Fund.



## **Item 14 – Client Referrals and Other Compensation**

The Adviser receives no economic benefit for providing investment advice or other services to the Clients other than the fees payable from the Funds to the Firm as described in the offering memorandum of each Fund.

Neither the Firm nor any related person directly or indirectly compensates any person who is not a supervised person of the Firm for investor referrals. In the past, the Firm has paid a third party placement agent for investor referrals. The Firm is currently not doing so, but may in the future.

## **Item 15 – Custody**

While it is the Adviser's practice not to accept or maintain physical possession of any client assets, the Adviser is deemed to have custody of each Fund's securities and cash for purposes of Rule 206(4)-2 of the Advisers Act.

In order to comply with Rule 206(4)-2, the Adviser utilizes the services of a bank and other qualified custodians (as defined under Rule 206(4)-2) to hold all cash and securities of the Funds (except with respect to privately offered securities). In accordance with Rule 206(4)-2, the Adviser also (1) has engaged an independent public auditor to conduct annual audits of the Funds, and (2) distributes audited financial statements of the Funds that are prepared in accordance with United States generally accepted accounting principles to all investors in the Funds within at least 120 days after the end of the fiscal year. Qualified custodians are not expected to provide account statements directly to investors in the Funds.

## **Item 16 – Investment Discretion**

In accordance with the terms and conditions of the applicable Governing Documents, the Adviser generally has discretionary authority to manage each Fund's investments. Accordingly, the Adviser has the authority to determine, without obtaining specific client consent but subject to the terms and conditions of the applicable Governing Documents, which portfolio and other investment companies to buy or sell and the duration of the holding period prior to exiting such investments. Despite this broad authority, The Adviser is committed to adhering to the applicable investment strategy and program set forth in each Fund's offering documents.

## **Item 17 – Voting Client Securities**

In the event that the Adviser is presented with an opportunity to vote a proxy, the Adviser's general policy is to vote proxies in accordance with the best interest of the Funds. The Adviser generally intends to vote proxies in line with company management. However, under certain circumstances when the Adviser believes that company management's proposal will not maximize value for the Funds, the Adviser intends to vote against company management's recommendations.

## **Item 18 – Financial Information**

The Adviser does not require prepayment of Management Fees more than six months in advance.

Currently, the Adviser and its affiliates are not aware of any financial condition that is likely to impair the Adviser's ability to meet its contractual obligations and commitments to clients.

The Adviser was not subject of a bankruptcy petition at any time during the past ten years.