

**Part 2A of Form ADV: Broadbill Investment Partners, LLC - *Brochure***

**Item 1 - Cover Page**

September 16, 2019

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This Brochure provides information about the qualifications and business practices of Broadbill Investment Partners, LLC (the “Adviser” or “Investment Manager”). If you have any questions about the contents of this brochure, please contact us at (646) 792-7245. 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.

Broadbill Investment Partners, LLC (hereinafter referred to as the “Adviser” or “Firm”) is an SEC registered investment adviser firm. Registration of an investment adviser does not imply any level of skill or training. The oral and written communications of an investment adviser provide you with information about which you determine to hire or retain an investment adviser.

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

## **Item 2 - Material Changes**

This Firm Brochure dated September 16, 2019 is our disclosure document. As required, the Firm must discuss material changes since the last annual update. As of 9/16/2019, there were the following material changes to report:

- Neil Subin departed the Firm
- Jonathan Marcus departed the Firm
- Timothy Presutti departed the Firm
- Joe DiMartino assumed the role of Chief Compliance Officer

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#### Item 4 - Advisory Business

- A. The Adviser is a Delaware limited liability company and has its principal place of business located in New York City, New York. The Adviser provides discretionary investment advisory services to private pooled investment vehicles, (each a “Fund”, “Client” or collectively, the “Funds” or “Clients”) for sophisticated, qualified investors.<sup>1</sup>

The Adviser was formed in 2011. The principal owners are Jeffrey Magee, Kurt Lageschulte, and Joseph DiMartino (the “Principals”).

- B. The Adviser seeks to develop a differentiated portfolio that delivers superior risk-adjusted returns over market cycles with minimal correlation to the broader markets. To achieve this end, the Adviser pursues inefficient and high value investment opportunities arising from dislocations, complex situations, restructurings and distressed assets, across industries and the capital structure.
- C. While each of its Clients will follow the general strategy stated above, the Adviser may tailor the specific advisory services with respect to each Client based on the particular investment objectives and strategies described in the applicable Client’s (i) confidential offering memorandum or (ii) governing documents (referred to collectively as “Offering Documents”).

**All discussion of the Clients in this Brochure, including but not limited to their investments, the strategies used in managing the Clients, and conflicts of interest faced by the Adviser in connection with the management of the Clients are qualified in their entirety by reference to each Client’s respective Offering or Governing Documents.**

- D. The Adviser does not participate in wrap fee programs.
- E. As of July 31, 2019, the Adviser manages \$132,908,222 in discretionary assets and \$0 in non-discretionary assets.

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<sup>1</sup> As a registered investment adviser, the Adviser owes a fiduciary duty to all of its clients. In 2006, the decision by the Court of Appeals for the D.C. Circuit in *Goldstein v. SEC*, 451 F.3d 873 (D.C. Cir. June 23, 2006), with respect to private funds, clarified that the “client” of an investment adviser to a private fund is the fund itself and not an investor in the fund.

## Item 5 - Fees and Compensation

- A. Below is a discussion of how the Adviser is compensated in connection with providing advisory services to its Clients. The Adviser may enter into different fee arrangements on a Client by Client basis.

*Management Fees.* Unless otherwise stated in each Fund's governing documents, the Adviser is generally entitled to a management fee (the "Management Fee") at an annual rate of one and a half percent (1.50%).

*Performance Allocation.* Unless otherwise stated in each Fund's governing documents, the Adviser is generally entitled to a performance-based profit allocation at the end of each calendar year equal to twenty percent (20%) of the net realized and unrealized appreciation in the net asset value of the Funds as reflected in each Limited Partner's Capital Account in the Funds. (the "Performance Allocation").

*Expenses.* Typically, the Funds will pay or reimburse the General Partner for all expenses incurred in connection with Fund offerings. On an ongoing basis the Funds typically pay or reimburse the Investment Manager for paying legal and accounting and administration expenses; interest on borrowings; custodial fees; bank service fees; withholding and transfer fees; investment related expenses including brokerage commissions, research and market data expenses; systems and technology expenses; corporate licensing fees; fund administration expenses; fees for risk management advisory services and software; fees for compliance advisory and related services; expenses for investment consultants; expenses of preparing, copying and distributing offering materials and reports pertaining to the Funds; costs of other service providers to the Funds deemed appropriate by the Investment Manager; taxes; insurance and litigation and indemnification expenses.

### Miscellaneous

The Adviser may agree with certain investors to a variation of the terms set forth in a Client's Offering Documents, including different Management Fees, Performance Allocations/performance fees, or withdrawal/redemption rights.

- B. Management Fees and Performance Allocations from the Fund are generally deducted directly from the capital accounts of the Funds' investors. Management Fees are calculated and deducted quarterly in arrears and Performance Allocations are calculated and deducted at the end of each calendar year or upon a withdrawal if appropriate.
- C. Clients will incur brokerage and other transaction costs. Item 12 of this brochure discusses how the Adviser selects brokers and determines the reasonableness of their compensation. The direct expenses borne by each Client are described in more full detail in each Client's Offering Documents and Governing Documents.
- D. As stated above, Fund Management Fees are typically payable quarterly in arrears. Once paid, the Management Fee is non-refundable.
- E. Other than as described above, neither the Adviser nor any of its supervised persons receives

any compensation from the sale of securities or other investment products.

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

As stated in Item 5 above, the Adviser or its affiliates receive performance-based fees or allocations from certain Clients. These payments are subject to Section 205(a)(1) of the Investment Advisers Act of 1940, as amended (the “Advisers Act”), in accordance with the available exemptions thereunder, including the exemption set forth in Rule 205-3, which requires that performance-based fees only be charged to “qualified clients” (as such term is defined in Rule 205-3).

Performance-based fees, in general, may create an incentive for an adviser or its supervised persons to make investments that are riskier and more speculative than would be the case in the absence of a performance-based fee. Such fee arrangements may also create an incentive to favor higher fee-paying clients over other clients in the allocation of investment opportunities. To address these conflicts of interest with respect to any future clients, the Adviser has implemented policies and procedures to ensure that all clients receive equitable and fair treatment over time with respect to the allocation of investment opportunities.

**Item 7 - Types of Clients**

As mentioned in Item 4, the Adviser provides investment advisory services to private pooled investment vehicles.

The minimum investment in a Fund is typically \$1,000,000 but can be waived within the sole discretion of their respective General Partners.



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

### **Investment Strategy Overview and Methods of Analysis**

The Adviser's principal trading objective is to seek to develop a differentiated portfolio that delivers superior risk-adjusted returns over market cycles with minimal correlation to the broader markets. To achieve this end, the Adviser pursues inefficient and high value investment opportunities arising from dislocations, complex situations, restructurings and distressed assets, across industries and the capital structure. The Adviser believes that many of the best risk-reward profiles are endemic in companies with unusually complicated capital structures and securities which are therefore overlooked or misunderstood by the market. The areas the Adviser invests in, given the esoteric nature and high technical demands, are some of the few market segments left where the Adviser believes one can develop a research driven informational advantage and generate unique, uncorrelated returns.

### **Risk Factors**

An investment with the Adviser involves substantial risks of loss that all Clients should be prepared to bear, and prospective investors should carefully consider, among other factors, the risks described below. These risk factors are not intended to be an exhaustive listing of all potential risks associated with an investment with the Adviser. An investor is encouraged to fully read and review the risk factors discussed in any relevant offering documents.

An investment with the Adviser is speculative because of a variety of risks and considerations. Among them are various investment risks, such as weakened financial condition of the companies and entities in whose securities the Adviser expects to invest; risks inherent in portfolio techniques such as short selling, high concentration, options, workouts, risk arbitrage, non-investment grade or illiquid securities, securities of non-U.S. issuers and securities denominated in or whose prices are quoted in non-U.S. currencies, and the use of leverage.

The Adviser also has various management risks and considerations, such as the possibility of high portfolio turnover and high brokerage and other operational costs; the potential loss of key management personnel, none of whom have long-term employment contracts; the authority of the Adviser to execute portfolio transactions and other potential conflicts of interest; and the inability of the Limited Partners of the Funds to remove or replace the Investment Manager or General Partner other than in extreme circumstances.

The Funds also have various investor risks, including the lack of transferability of Limited Partnership Interests; the inability to withdraw capital other than on predefined terms as more explicitly explained in the Offering Documents; and the ability of the General Partner to force a withdrawal of any Limited Partner or to dissolve the Fund at any time.

### **Business Risks**

Investments in Distressed Companies. The Fund may invest in securities of distressed or troubled companies which involve a substantial degree of risk. The Fund may lose its entire investment in a distressed company, may be required to accept cash or securities with a value less than the Fund's

investment and may be prohibited from exercising certain rights with respect to such investment. Distressed company investments may not show any returns for a considerable period of time. There may be very long-term limited markets, if any, for the Fund's holdings. There is no assurance that the securities of the Fund's portfolio companies will resume trading in public markets or be acquired by other companies. Sales of securities held by the Fund may be dependent on the exercise of registration rights or the expiration of relevant securities laws restrictions.

The troubled companies in which the Fund invests may be involved in (or the target of) acquisition attempts or tender offers or companies involved in work-outs, liquidations, spin-offs, reorganizations, bankruptcies and similar transactions. In any investment opportunity involving any such type of business enterprise there exists the risk that the transaction in which such business enterprise is involved either will be unsuccessful, take considerable time, or 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. Similarly, if an anticipated transaction does not in fact occur, the Fund may be required to sell its investment at a loss. Because there is substantial uncertainty concerning the outcome of transactions involving financially troubled companies in which the Fund may invest, there is a potential risk of loss by the Fund of its entire investment in such companies.

Low Credit Quality Securities. The Fund may invest in securities of financially leveraged or troubled or potentially troubled companies or entities including governmental entities that may be or have recently been involved in restructurings, bankruptcy reorganization or liquidation. These securities are likely to be particularly risky investments although they also may offer the potential for correspondingly high returns. As a result, the Fund may lose all or substantially all of its investment in any particular instance. In addition, there is no minimum credit standard which is a prerequisite to the Fund's investment in any instrument and most obligations and preferred stock in which the Fund will invest will be less than investment grade and many such may be considered to be "junk bonds." See Annex A for a discussion of credit risks associated with medium to lower grade debt instruments and preferred stocks. Securities in which the Fund may invest may rank junior to other outstanding securities and obligations of the issuer, all or a significant portion of whose debt instruments may be secured by substantially all of the issuer's assets. Moreover, the Fund may invest in securities, which are not protected by financial covenants or limitations on additional indebtedness.

Concentration. The Fund may concentrate its investments by investing up to 33% of its total assets at the time of the investment in the securities of a single issuer and may invest up to 100% of its assets in a single industry. The overall adverse impact on the Fund of adverse movements in the value of the securities of a single issuer or industry could be greater than if the Fund were not permitted to concentrate its investments to such an extent.

Illiquid Securities. The Investment Manager expects that the Fund may invest in securities which are subject to legal or other restrictions on transfer or for which no liquid market exists. The market prices, if any, for such securities tend to be more volatile, and the Fund may not be able to sell them when it desires to do so or to realize what it perceives to be their fair value in the event of a sale. In addition, the value assigned to such securities for the purposes of determining Net Profit and Net Loss may differ from the value the Fund is able to ultimately realize.

Market and Economic Conditions. Changes in economic conditions, including, for example, interest rates, industry conditions, competition, technological developments, political and diplomatic events and trends, tax laws and innumerable other factors, can affect substantially and

adversely the investments of the Fund. None of these conditions will be within the control of the Investment Manager. The value of investments may fluctuate in accordance with changes in the financial condition of companies in which the Adviser invests and other factors that affect the markets in which the Fund invests.

Investment Selection; Reliance on Management. The Investment Manager will select investments for the Fund on the basis of publicly available information. Although the Investment Manager intends to evaluate carefully all such information and to seek independent corroboration when it considers corroboration appropriate and when it is reasonably available, it will not be in a position to confirm the completeness, genuineness or accuracy of such information.

Limited Partners will not have an opportunity to select or evaluate any Fund investments, or to review the Fund's securities positions at any given time. All Fund investments will be selected by the Investment Manager and the quality of its decision will dictate the Fund's success or failure. See "The Investment Manager."

Restructurings or Bankruptcy Proceedings. The Fund may invest in securities of companies involved in restructurings or bankruptcy proceedings. Such securities are, in certain circumstances, subject to certain liabilities, which may exceed the cost of the Fund's original investment. In addition, under certain circumstances, payments to the Fund and distributions by the Fund to its Partners may be reclaimed if any such payment is later determined to have been a fraudulent conveyance or a preferential payment.

Leverage. To the extent permitted by applicable regulations, the Fund may borrow amounts up to 50% of its total assets. While leverage presents opportunities for increasing the Fund's total return, it has the effect of potentially increasing losses as well. If income and appreciation on the investments made with borrowed funds are less than the required interest payments on the borrowings, the value of the Fund's net assets will decrease. Accordingly, any event, which adversely affects the value of an investment by the Fund, would be magnified to the extent the Fund is leveraged. The cumulative effect of the use of leverage by the Fund in a market that moves adversely to the Fund's investments could result in a substantial loss to the Fund which would be greater than if the Fund were not leveraged.

Short Selling. The Fund may engage in short selling. Short selling involves selling securities, which may or may not be owned and borrowing the same securities for delivery to the purchaser, with an obligation to replace the borrowed securities at a later date. Short selling allows the investor to profit from declines in market prices to the extent such decline exceeds the transaction costs and the costs of borrowing the securities. However, since the borrowed securities must be replaced by purchase at market prices in order to close out the short position, any appreciation in the price of the borrowed securities would result in a loss. Purchasing securities to close out the short position can itself cause the price of the securities to rise further, thereby exacerbating the loss.

Options Transactions. The Fund may engage in options transactions. The purchase or sale of an option involves the payment or receipt of a premium payment by the investor and the corresponding right or obligation, as the case may be, to either purchase or sell the underlying security or other instrument for a specific price at a certain time or during a certain period. Purchasing options involves the risk that the underlying instrument does not change price in the manner expected, so that the option expires worthless and the investor loses its premium. Selling options, on the other hand, involves potentially greater risk because the investor is exposed to the extent of the actual price movement in the underlying security in excess of the premium payment received.

Foreign Securities. The Fund may invest in securities of non-U.S. issuers. Investments in securities of non-U.S. issuers including securities denominated or whose prices are quoted in non-U.S. currencies pose currency exchange risks (including blockage, devaluation and non-exchangeability) as well as a range of other potential risks which could include, depending on the country involved, expropriation, confiscatory taxation, political or social instability, illiquidity, price volatility and market manipulation. In addition, less information may be available regarding securities of non-U.S. issuers and non-U.S. companies may not be subject to accounting, auditing and financial reporting standards and requirements comparable to or as uniform as those of U.S. companies. Transaction costs of investing in non-U.S. securities markets are generally higher than in the U.S. There is generally less government supervision and regulation of exchanges, brokers and issuers than there is in the U.S. The Fund might have greater difficulty taking appropriate legal action in non-U.S. courts. Non-U.S. markets also have different clearance and settlement procedures, which in some markets have at times failed to keep pace with the volume of transactions, thereby creating substantial delays and settlement failures that could adversely affect the Fund's performance.

Significant Changes in Global Trade Agreements. The United States, the United Kingdom and certain other countries have made significant changes in their position towards various trade agreements and relationships. In June 2016, the United Kingdom (the "UK") approved a referendum to leave the European Union ("EU"), commonly referred to as "Brexit," which sparked depreciation in the value of the British pound and heightened risk of continued economic volatility within the UK and the EU. In January 2017, President Trump signed an executive order withdrawing the United States from the Trans-Pacific Partnership. The United States has also announced its intent to renegotiate the North American Free Trade Agreement (NAFTA), which promotes free trade between Canada, Mexico and the United States. These changes in posture towards multi-lateral trade agreements could impact national and global economies, increase market volatility and cause prolonged periods of uncertainty for companies in industries and economic sectors most impacted by the changes.

Competition for Investments. Although the Investment Manager believes that many investment opportunities exist and will develop which will be suitable for the Fund in connection with seeking to achieve its investment objectives, a number of other funds, institutions and other investors are seeking similar objectives by employing investment strategies similar to those of the Fund. Accordingly, the identification of attractive investment opportunities is difficult, competitive and involves a high degree of uncertainty. There can be no assurance that sufficiently attractive investment opportunities will be found to achieve the Fund's investment objectives.

Lender Liability. Although some of the loans in which the Fund invests may be secured, there is no assurance that the collateral securing such obligation can be liquidated in particular cases, or that its liquidation value will be sufficient to cover the value of the debt. In most loan arrangements, there is no formal requirement to pledge additional collateral. As a result, a loan may not be fully collateralized and can decline significantly in value. If a borrower becomes insolvent, access to collateral may be limited by bankruptcy and other laws. Borrowers that are in bankruptcy may pay only a small portion of the amount owed, if any. If a secured loan is foreclosed, there is a possibility that the Fund will become the owner of its pro rata share of the collateral, and thus will be required to bear the costs of liabilities associated with owning and disposing of the collateral. In addition, under legal theories of lender liability, the Fund potentially may be held liable as a co-lender.

## **Partnership and Other Risks**

Conflicts of Interest. Conflicts of interest exist in the structure and operation of the Fund's business. The Partnership Agreement does not restrict the General Partner or the Investment Manager or their principals from entering into other investment advisory relationships or engaging in other business activities, even though those activities may be in competition with the Fund and/or may involve substantial amounts of the General Partner's or Investment Manager's time and resources, and the General Partner and Investment Manager may act as the general partner and/or investment manager of other investment funds. See General Partner – Other Funds and Outside Interests; Allocations of Investments among Accounts Conflicts of interest could arise in connection with securities transactions for the accounts of the Fund, other investment vehicles in which the General Partner or Investment Manager or any of its principals is involved, any other advisory clients of the General Partner or Investment Manager, and the General Partner, Investment Manager or its principals themselves. These transactions could differ in substance, timing, and amount, due to, among other things, differences in investment objectives or other factors affecting the appropriateness or suitability of particular investment activities to the Fund or other Clients, or to limitations on the availability of particular investment or transactional opportunities. The General Partner and Investment Manager will allocate transactions and opportunities among its various accounts taking into account a variety of factors, but all accounts may not necessarily invest in the same securities. See General Partner – Other Funds and Outside Interests; Allocations of Investments among Accounts.

If the Fund and any other investment portfolios the General Partner or Investment Manager or their affiliates manage to seek to buy or sell the same security at the same time, the General Partner or Investment Manager may combine purchase and sale orders on behalf of the Fund with orders for those other portfolios, and allocate the securities or proceeds arising out of those transactions (and the related transaction expenses) on an average price basis among the various participants in the transactions. While the General Partner and the Investment Manager believe aggregating transaction orders in this way is, over time, advantageous to all participants, in particular cases the average price could be less advantageous to the Fund than if the Fund had been the only account effecting the transaction or had completed its transaction before the other participants. Because of the General Partner's interest in the Fund, there could be circumstances in which the Fund's transactions may not, under certain laws and regulations, be combined with those of some of the other accounts the General Partner or Investment Manager manages, and the Fund may obtain less advantageous execution than such other accounts.

Except in connection with Capital Contributions made in-kind, the General Partner, the Investment Manager and their affiliates may not be acting as principal, purchase from or sell to the Fund any securities except in accordance with applicable regulatory requirements. On occasion, and subject to regulatory requirements, the Investment Manager may cause the Fund to purchase securities of issuers in which the General Partner and/or its affiliates, including the Investment Manager, have a financial interest.

In selecting a broker or dealer for any transaction or series of transactions, the Investment Manager will attempt to obtain in its good faith judgment the best qualitative execution and competitive pricing. (See "Brokerage Practices.")

The Investment Manager and its principals, officers, directors, and employees may trade in securities and other instruments suitable for the Fund only if the Investment Manager determines in good faith that the proposed trading will not interfere with the Fund's ability to buy or sell such securities or other instruments in sufficient quantity at advantageous prices or the Fund has

completed its trading therein for the foreseeable future. If the Fund and the General Partner, Investment Manager or their affiliates do trade in the same securities on the same day, the General Partner, Investment Manager and their principals, officers, directors, and employees will not receive a better price than the Fund.

Finally, the fact that the General Partner's Performance Allocation is based upon the performance of the Fund may create an incentive for the General Partner to cause the Fund to make investments that are more speculative than would be the case in the absence of Performance Allocation distributions. Further, under law applicable to tax years beginning after 2017, allocations and distributions attributable to the Performance Allocation generally require a three-year holding period, which creates an incentive for the General Partner to cause the Fund to retain an investment longer than it otherwise would under certain circumstances.

Board Compensation. Members, principals, officers and employees of the Adviser and its affiliates, including the General Partner, hold positions on the boards of directors of certain private and/or public companies for compensation, including companies in which the Fund invests or may invest in the future. Such compensation may include cash, restricted stock and/or options of such company. Any compensation received in connection with such board positions is retained by the individual and/or assigned to the General Partner or the Adviser and will not be credited to the Fund or the Limited Partners. In addition, in their capacity as officers or directors of companies, such individuals may become subject to fiduciary or other duties which can adversely affect the Fund. For example, the Fund may be unable to sell or otherwise dispose of portfolio securities if a director of the portfolio company is an employee of the Adviser or General Partner and is in possession of material, non-public (i.e., "inside") information relating to the issuer. Nevertheless, the Fund's Partnership Agreement will not preclude members of the Adviser from serving as officers or directors of portfolio companies or otherwise acquiring material, non-public information regarding portfolio companies. In general, if there is a conflict between the fiduciary duties of the Adviser or a member thereof to a portfolio company and such person's fiduciary duties to the Fund or the Limited Partners, such person's fiduciary duties to the portfolio company will prevail.

Turnover. The Fund's activities can involve investment on the basis of various short-term market considerations. The turnover rate of the Fund may be significant, involving substantial brokerage commissions and fees.

Lack of Management Control by Limited Partners. Under the Partnership Agreement, the Limited Partners do not have the right to participate in the management, control or operation of the Fund or to remove the General Partner or Investment Manager except under extreme circumstances. The General Partner, on the other hand, may dissolve the Fund upon notice of dissolution to the limited Partners at any time or by its withdrawal as General Partner.

Profit Participation. The General Partner will receive a Performance Allocation from unrealized appreciation as well as realized gains in each Limited Partner's Capital Account. The entitlement of the General Partner to a Performance Allocation could create an incentive for the General Partner to choose investments that are riskier or more speculative than would otherwise be the case.

Dependence on Key Personnel. Investment decisions for the Fund are made by the Investment Manager. The success of the Fund depends on the ability of the Investment Manager's personnel to identify suitable investments and dispose of such investments at a profit. There can be no assurance that all of the personnel of the Investment Manager will continue to be associated with the Investment

Manager for any length of time. The Fund will be highly dependent on the expertise and abilities of the personnel of the Investment Manager, and, therefore, the death, incapacity or termination of any principals of the Investment Manager could have an adverse effect on the Fund's ability to realize its investment objective.

Cybersecurity Risk. Intentional cybersecurity breaches include unauthorized access to systems, networks, or devices (such as through "hacking" activity); infection from computer viruses or other malicious software code; and attacks that shut down, disable, slow, or otherwise disrupt operations, business processes, or website access or functionality. In addition, unintentional incidents can occur, such as the inadvertent release of confidential information (possibly resulting in the violation of applicable privacy laws). A cybersecurity breach could result in the loss or theft of customer data or funds, the inability to access electronic systems ("denial of services"), loss or theft of proprietary information or corporate data, physical damage to a computer or network system, or costs associated with system repairs. Such incidents could cause the Fund, the General Partner, the Investment Manager, or other service providers to incur regulatory penalties, reputational damage, additional compliance costs, or financial loss. In addition, such incidents could affect assets the Fund invests in, and thereby cause the Fund's Investments to lose value.

## **Fund Risks**

Limited Right of Withdrawal. A Limited Partner is restricted in its right to make full or partial withdrawals from the Fund pursuant to the terms of the Partnership Agreement.

Involuntary Liquidation of a Limited Partner's Interest. Unless otherwise stated in each Fund's governing documents, the General Partner may, in its sole discretion and at any time, terminate the interest of any Limited Partner in the Fund upon five days' prior written notice to any Limited Partner.

Lack of Transferability of Fund Interests. The Interests offered have not been registered under the Securities Act or state securities laws and are subject to restrictions on transfer contained in such laws and the Partnership Agreement. A purchaser of an Interest must represent that such purchaser is acquiring the Interest for investment and not with a view to resale or distribution. The Interests are not transferable except by will or operation of law without the consent of the General Partner in its sole discretion. There will not be any market for the Interests.

No Independent Representation for Limited Partners. Legal counsel for the General Partner and the Investment Manager does not and will not serve as counsel for the Fund or represent the interests of the Limited Partners or the Fund in connection with the business of the Fund or any offering of Interests, and such counsel disclaims any fiduciary or attorney/client relationship with the Limited Partners of the Fund. Neither the Fund nor potential investors in the Fund as a group nor the Limited Partners as a group have been represented by separate counsel. The attorneys, accountants, and other experts who perform services for the General Partner or Investment Manager on behalf of the Fund all perform services for the General Partner and/or the Investment Manager and do not represent or perform services for the Limited Partners. Prospective Limited Partners should obtain the advice of their own counsel regarding legal matters.

Broad Indemnification of General Partner. The Partnership Agreement contains provisions that may provide a broader indemnification of the General Partner and its members, directors, officers and employees against claims or lawsuits arising out of the Fund's activities than would apply in the absence of such provisions. If the Fund were called upon to perform under its indemnification

obligations, then the portion of its assets expended in such fashion would reduce the amounts otherwise available for Fund operations or for allocation to the Capital Accounts of the Partners. The Fund has not purchased, and does not presently intend to purchase, any insurance relating to its indemnity obligations or potential liability of the General Partner or the Investment Manager to the Fund.

Liability of Limited Partners. Limited Partners are ordinarily personally liable for the obligations of a limited partnership only to the extent of their capital contributions and share of undistributed profits of the Fund. If a distribution to a Limited Partner by the Fund renders the Fund insolvent, the Limited Partner may be obligated to return the distribution.

Fund Not Registered as an Investment Company. The Fund intends to rely on Section 3(c)(7) of the Investment Company Act, which allows an investment entity that is not engaged in a public offering and all of the voting securities of which are beneficially owned by “Qualified Purchasers” to avoid requirements that it register as an “investment company” under, and comply with the substantive provisions of, the Investment Company Act. If the Fund were registered as an investment company, the Investment Company Act would require, among other things, that the Fund have a board of directors, some of whom are unrelated to the General Partner, compel certain custodial arrangements and regulate the relationship and transactions between the Fund and the General Partner. Compliance with some of those provisions could possibly reduce certain risks of loss and therefore help to protect Limited Partners’ investments, although it would significantly increase the Fund’s operating expenses and limit the Fund’s investment and trading activities. SEC regulations relating to who is a “Qualified Purchaser” and other aspects of Section 3(c)(7) are complex and uncertain in several respects. As a result, there can be no assurance that the Fund will remain entitled to rely on Section 3(c)(7). If the Fund were found not to have been entitled to that reliance, the Fund and the General Partner could be subject to legal actions by the SEC and others and the Fund could be forced to terminate its business under adverse circumstances.

Private Offering Exemption. The Fund intends to offer Interests on a continuing basis without registration under any securities laws in reliance on an exemption for “transactions by an issuer not involving any public offering.” While the General Partner believes reliance on such exemptions is justified, there can be no assurance that factors such as the manner in which offers and sales are made, concurrent offerings by other partnerships, the scope of disclosure provided, failures to make notices, filings, or changes in applicable laws, regulations, or interpretations will not cause the Fund to fail to qualify for such exemptions under Federal or one or more states’ laws. Failure so to qualify could result in the rescission of sales of Interests at prices higher than the current value of those Interests, potentially materially and adversely affecting the Fund’s performance and business. Further, even non-meritorious claims that offers and sales of Interests were not made in compliance with applicable securities laws could cause the Fund to incur significant legal costs and could otherwise materially and adversely affect the Investment Manager’s ability to conduct the Fund’s business.

Side Letters and Other Agreements with Investors. The Fund or the General Partner may enter into “side letter” agreements with certain Limited Partners which typically provide access to frequent and/or more detailed information regarding the Fund’s securities positions, performance and finances and may address regulatory or other matters of particular significance to certain types of investors. As a result, certain Limited Partners may be better able to assess the prospects and performance of the Fund than other Limited Partners. Such side letter agreements may modify the Management Fee



or Performance Allocation for certain Limited Partners. The Fund does not intend to disclose the terms of such side letter agreements and does not intend to disclose the identities of the Limited Partners that have entered into such agreements with the Fund or the General Partner.

Operational Risk. The Fund depends on the General Partner and the Investment Manager to develop the appropriate systems and procedures to control operational risk. Operational risks include the possibility of mistakes being made in the confirmation or settlement of transactions, transactions not being properly booked, evaluated or accounted for, or other similar disruptions in the Fund's operations. These mistakes may arise, for example, due to keystroke errors that occur when entering trades into an electronic trading system, failures of oral communication between the investment staff and trading staff, or typographical or drafting errors related to derivatives contracts or confirmations or similar documents. These events may cause the Fund to suffer financial loss, disruption of business, liability to clients or third parties, regulatory intervention or reputational damage. The Fund relies heavily on its financial, accounting and other data processing systems. The ability of the Fund's systems to accommodate an increasing volume of transactions could also constrain the General Partner's or the Investment Manager's ability to properly manage the portfolio.

Other Regulatory Matters. The Fund, the General Partner and the Investment Manager will be subject to various other securities and similar laws and regulations that could limit some aspects of the Fund's operations or subject the Fund, the General Partner or the Investment Manager to the risk of sanctions for noncompliance. Investors that are employee benefit plans should consider certain factors discussed below under the heading "Certain Considerations for ERISA Plans."

Control Position. If the Fund were to obtain a control position or other substantial position in any public company, it may be required to make filings concerning its holdings with the SEC and it may become subject to other regulatory restrictions that could limit the ability of the Fund to dispose of its holdings at the times and in the manner the Fund would prefer. Violations of these regulatory requirements could subject the Fund to significant liabilities. Additionally, if the Fund were to obtain a control position in any company (through equity and/or extensions of credit), this could expose the Fund to liabilities not normally associated with minority equity investments, such as additional risks for environmental damage, product defects, violation of governmental regulations and other types of liability in which the limited liability characteristic of business operations may be ignored.

Tax Risks. EACH PROSPECTIVE INVESTOR MUST CONSULT HIS OWN TAX ADVISOR REGARDING THE POTENTIAL TAX TREATMENT OF THE FUND AND OF ANY INTEREST HE INTENDS TO ACQUIRE IN THE FUND.

A Partner must report his share of Fund income, if any, and will be subject to tax on his respective share of Fund income, if any, whether or not such Partner receives any cash distribution from the Fund. Accordingly, taxes payable by the Partners with respect to Fund taxable income for any year may exceed Fund distributions if any, during that year.

In reporting to federal, state and local taxing authorities, the Fund will be required to make certain determinations as to the character and timing of income and loss of the Fund for tax purposes. There can be no assurance that the Fund's determination will be accepted by federal, state or local taxing authorities or courts; contrary determinations could have a materially adverse effect on the Fund and the Partners.

The Fund does not presently intend to request any ruling from the Internal Revenue Service or any opinion from counsel as to any federal, state, or local income tax consequences relating to the structure and operation of the Fund. There can be no assurance that any tax position taken by the Fund will not be challenged by the Service or other taxing authorities. (See “Certain Federal Income Tax Considerations.”)

The Fund may borrow for investment purposes. Any such borrowing may cause the Fund to have “debt financed property” which may result in UBTI to certain Partners that are exempt from U.S. federal income tax. In addition, certain U.S. institutions of higher education may be subject to an excise tax on any investment income they earn in respect of their investment in the Fund. Accordingly, an investment in the Fund may not be appropriate for tax-exempt organizations.

**Item 9 - Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of the adviser or the integrity of the adviser's management.

There are no legal or disciplinary events that are material to an evaluation of the Adviser's advisory services or the integrity of management.

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

- A. The Adviser is not registered, and does not have an application pending to register, as a broker-dealer or registered representative of a broker-dealer. Currently, no employees of the Adviser are registered representatives of a broker-dealer.
- B. Neither the Adviser nor any of its management persons are registered, or have an application pending to register, as a futures commission merchant, commodity pool operator, commodity trading advisor, or an associated person of the foregoing entities.
- C. The Adviser's Principals or affiliates may from time to time become members of and make capital contributions to the Fund(s). In the view of the Principals, this aligns the interests of the Principals and its affiliates with the Fund(s) and its investors and does not result in any conflicts of interest between the Adviser and the Fund(s). Additionally, the Principals are also bound by the Adviser's Code of Ethics as discussed in Item 11 below.

In addition to the Adviser's Clients, Certain Principals of the Adviser engage in other investment advisory services outside of the Adviser. In these unrelated roles, the Principals may, from time to time, advise the unrelated clients to participate in the same investment(s) as that of the Adviser's Clients. When such recommendations for unrelated clients to invest in the same investments as the Adviser's Clients are made or considered, certain conflicts of interest may exist including divided fiduciary duties and an incentive for the Principals to recommend such investments to unrelated clients instead of the Adviser's Clients. To address these potential conflicts of interest, the Adviser has implemented a Code of Ethics as described in Item 11 which includes, among other things, a requirement that the Principals disclose to the Adviser's CCO any interest of unrelated clients to participate in the same securities or investments as that of the Adviser's Clients.

Members, principals, officers and employees of the Adviser and its affiliates, including the General Partner, hold positions on the boards of directors of certain private and/or public companies for compensation, including companies in which the Fund invests or may invest in the future. Such compensation may include cash, restricted stock and/or options of such company. Any compensation received in connection with such board positions is retained by the individual and/or assigned to the General Partner or the Adviser and will not be credited to the Fund or the Limited Partners. In addition, in their capacity as officers or directors of companies, such individuals may become subject to fiduciary or other duties which can adversely affect the Fund. For example, the Fund may be unable to sell or otherwise dispose of portfolio securities if a director of the portfolio company is an employee of the Adviser or General Partner and is in possession of material, non-public (i.e., "inside") information relating to the issuer. Nevertheless, the Fund's Partnership Agreement will not preclude members of the Adviser from serving as officers or directors of portfolio companies or otherwise acquiring material, non-public information regarding portfolio companies. In general, if there is a conflict between the fiduciary duties of the Adviser or a member thereof to a portfolio company and such person's fiduciary duties to the Fund or the Limited Partners, such person's fiduciary duties to the portfolio company will prevail.

- D. The Adviser does not recommend or select other investment advisers for its Clients.

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

- A. The Adviser has adopted a written Code of Ethics designed to address and avoid potential conflicts of interest as required under Rule 204A-1 of the Advisers Act (the “Code”). The Code sets forth a standard of business conduct and compliance with federal securities laws by all of the Adviser's employees. The Code contains policies and procedures that ensure that all personal securities trading by employees of the Adviser is conducted in such a manner as to avoid actual or potential conflicts of interest or any abuse of an individual's position of trust and responsibility. The Adviser prohibits personal trading on certain securities or instruments; requires pre-clearance of personal trades in certain circumstances, including purchases of an IPO or a new private placement; requires periodic reporting of employees' personal securities transactions and holdings; and requires prompt internal reporting of Code violations.

The Adviser has established procedures to prevent the abuse of material, non-public information, which includes procedures for, among other things, the use and maintenance of restricted trading lists. Because the structure of the Adviser would make information barriers impractical, the firm has not imposed information barriers to restrict the internal flow of possible material, non-public information. Thus, all professionals are deemed to be in receipt of material, non-public information, in all instances where any professional of the Adviser has received material, non- public information, and, therefore, may not trade on the basis of that information.

The Adviser will provide a copy of the Code to any investor or prospective investor upon request.

- B. The Adviser's Principals are a members of the Fund(s). Therefore, the Adviser may be deemed to recommend to Clients or buy or sell for Clients, investments in which the Adviser has a material financial interest.
- C. The Principals may make capital contributions to the Fund(s). Such amounts may be invested pro rata with the members of the Fund(s) in all Fund portfolio investments. In the view of the Principals, this aligns the interests of the Principals with the Fund(s) and its investors. From time to time, the GP may find it necessary to make non-material capital withdrawals from the Funds for various reasons. To mitigate any potential conflict of interest, the Adviser's Code of Ethics requires, among other things, that the Adviser disclose such withdrawals to Limited Partners when such withdrawals may be deemed material, and requires employees to disclose to the CCO any activities that may create an actual or potential conflict of interest.
- D. Subject to the requirements of the Code, the Adviser may recommend investments to Clients, or make investments for Clients, at or about the same time that the Adviser or its related persons buys or sells the same investments for their own account.

## Item 12 - Brokerage Practices

- A. The Adviser has complete discretion to determine, subject to each Client's disclosed investment objectives, policies and strategies, the securities to be purchased or sold and in what amounts, the broker-dealers and other financial intermediaries use in effecting the transactions for Clients, and the commission rates to be paid for such transactions.

*Brokerage.* The Adviser selects the broker-dealers and other financial intermediaries used to effect transactions on behalf of its Clients. The Adviser seeks to obtain "best execution" from these broker-dealers based on a variety of factors. In selecting broker-dealers to effect portfolio transactions, the Adviser may cause a Client to enter into arrangements pursuant to which the Client pays transaction costs in an amount greater than would be incurred if another broker-dealer were used. The Adviser is not required to solicit competitive bids or seek the lowest available commission or transaction costs. The transactions executed by a Client may be cleared through, and the Client's investment instruments may be held by, a number of financial institutions the Adviser selects on terms negotiated with each such financial institution individually. Subject to the Adviser's agreement with each Client, the Adviser generally will use a variety of financial institutions both to take advantage of differing expertise and capabilities and to avoid, due to credit concerns, having all investment instruments concentrated at one firm. The Adviser does not consider the receipt of Client referrals when selecting broker-dealers to execute transactions.

The Adviser does not permit clients to direct brokerage to a specified broker-dealer. All brokerage transactions will be executed through the broker-dealers selected by the Adviser.

*Soft Dollars.* The Adviser does not currently intend to obtain third party research or brokerage-related services through "soft dollar" or other commission sharing arrangements. However, should the Adviser choose to do so, any such practices are expected to comply with the "safe harbor" established by Section 28(e) of the Securities Exchange Act of 1934, as amended (the "Exchange Act").

- B. In general (and when applicable), the Adviser attempts to aggregate multiple orders for the purchase or sale of the same instrument into block transactions, subject to the overall obligation to achieve best price and execution for its Clients.

**Item 13 - Review of Accounts**

- A. The Principals of the Adviser are responsible for reviewing Client investment portfolios on a daily basis relating to, among other factors, position sizes; exposure levels; margin requirements; and investment strategy compliance.
- B. See Item 13.A. above.
- C. The Adviser provides Fund investors with audited annual financial statements, periodic reports and other communications, and all tax information relating to their investments in the Fund necessary for U.S. federal income tax purposes.

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

- A. The Adviser does not receive any economic benefit, including sales awards or prizes, from any third party for providing advisory services to the Fund.

Members, principals, officers and employees of the Adviser and its affiliates, including the General Partner, hold positions on the boards of directors of certain private and/or public companies for compensation, including companies in which the Fund invests or may invest in the future. Such compensation may include cash, restricted stock and/or options of such company. Any compensation received in connection with such board positions is retained by the individual and/or assigned to the General Partner or the Adviser and will not be credited to the Fund or the Limited Partners

- B. The Adviser may enter into agreements with persons who refer potential investors for the Fund to the Adviser. For their referral services, these persons may receive compensation from the Adviser in the form of a percentage of the Management Fee and/or Performance Allocation that the Adviser and its affiliates receive from the Fund with respect to the referred investors. All solicitation arrangements that the Adviser may enter into will be designed to be in compliance with Rule 206(4)-3 under the Advisers Act and any similar state regulations. The Fund and its underlying investors are not responsible for any of the fees paid to the referring persons.



**Item 15 - Custody**

The Adviser is deemed, under Rule 206(4)-2 of the Advisers Act, to have custody of the assets of the Funds by virtue of the common control of the Adviser and the General Partners of the Funds. All assets and securities of the Funds are held by qualified custodians, other than certain assets that qualify as “privately offered securities” under the Custody Rule. As noted in Item 13 above, Fund investors receive annual financial statements audited by an independent public accounting firm. Fund investors are urged to carefully review these statements.

**Item 16 - Investment Discretion**

The Adviser exercises discretion in managing the investments of the Funds based on the Funds' investment objectives, policies, and strategies disclosed in its Offering Documents.

The Adviser contractually assumes discretionary authority over the assets of the Funds under an investment management agreement entered into among the Adviser and the Fund.

## **Item 17 - Voting Client Securities**

The Adviser follows a proxy voting policy to ensure that proxies the firm votes, on behalf of each Client, are voted to further the best interest of that Client. The policy establishes a mechanism to address any conflicts of interests between the Adviser and its Clients. Further, the policy establishes how a Client's underlying investors may obtain information on how the proxies have been voted.

The Adviser determines how to vote after studying the proxy materials and any other materials that may be necessary or beneficial to voting. The Adviser votes proxies in a manner that it believes reasonably furthers the best interests of its Clients and their investors and is consistent with the investment philosophy as set forth in the relevant Client Offering Documents.

If a proxy vote creates a material conflict between the interests of the Adviser and a Client, the Adviser will resolve the conflict before voting the proxies. The Adviser will take steps designed to ensure that a decision to vote the proxy was based on the Adviser's determination of the Client's best interest and was not the product of the conflict.

The Adviser maintains records of (i) all proxy votes that are made on behalf of its Clients; (ii) all written requests from each Client's underlying investors regarding voting history; and (iii) all responses (written and oral) to investors' requests. Such records are available to each Client's underlying investors upon request.

**Item 18 - Financial Information**

- A. The Adviser does not require or solicit prepayment of more than \$1,200, six months or more in advance.
- B. The Adviser does not believe it has any financial condition that is reasonably likely to impair its ability to meet its contractual commitments to the Fund.
- C. The Adviser has not been the subject of a bankruptcy petition at any time during the past ten years.