

**FORM ADV PART 2A**

**FALCON E&P OPPORTUNITIES GP, LLC**

March 30, 2019

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This brochure provides information about the qualifications and business practices of Falcon E&P Opportunities GP, LLC. ("Falcon") If you have any questions about the contents of this brochure, please contact us at [acoussens@petrocap.com](mailto:acoussens@petrocap.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. Additional information about Falcon is also available at the Securities and Exchange Commission's website [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). Our registration as an investment adviser does not imply a certain level of skill or training.

## **ITEM 2. MATERIAL CHANGES**

The following material change has been made to Falcon's Form ADV Part 2A since its last annual amendment filed on March 30, 2018:

- Item 11 – Falcon enhanced the Personal Trading section to disclose that access persons must obtain preclearance before placing trades in energy-related reportable securities.

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## ITEM 4. ADVISORY BUSINESS

Falcon is the investment adviser for, and the general partner of the Falcon E&P Opportunities Fund, L.P. (the “Falcon Fund” or the “Fund”). Falcon was formed in 2010 and the Falcon Fund held its initial closing in July of 2010 and completed its final closing to investors in November of 2011. The Falcon Fund is not accepting additional subscriptions from investors.

### OWNERSHIP

Falcon is owned 51% by HCMS Falcon, L.P. (“HCMS Falcon”) and 49% by PetroCap Management Company LLC (“PetroCap”). The general partner of HCMS Falcon is HCMS Falcon GP, LLC (“HCMS Falcon GP”). Highland Capital Management Services, Inc. (“HCM Services”) is the sole owner of HCMS Falcon GP and is the sole limited partner of HCMS Falcon. HCM Services is owned by James Dondero and Mark Okada. PetroCap is owned by R.D Rinehart, Doug Evans, John Sears and Thomas Neville. Our day to day management is controlled by the four members of our Board of Managers, which includes the three PetroCap principals: Messrs. Rinehart, Sears and Evans, as described more fully in our Limited Liability Company Agreement and as described more fully in Item 13 hereof.

### TYPES OF ADVISORY SERVICES

The Falcon Fund is currently our sole advisory client. The Fund is not registered under the Investment Company Act of 1940 (“IC Act”) and is not registered under the Securities Act of 1933. The Falcon Fund is invested in stand-alone oil and natural gas projects with a focus on the “upstream” or exploration and production (E&P) segment of the domestic oil and natural gas industry.

### TAILORING SERVICES

Falcon provides investment advice directly to the Falcon Fund and does not tailor its services individually to the Falcon Fund’s investors. Falcon invests in a manner which is consistent with the stated investment objectives as detailed in the governing documents of the Falcon Fund.

### REGULATORY ASSETS UNDER MANAGEMENT

As of December 31, 2018, Falcon managed \$74.1 million in total regulatory assets under management on a discretionary basis. Falcon does not manage any client assets on a non-discretionary basis.

## ITEM 5. FEES AND COMPENSATION

### Management Fees

Our fee schedule is provided directly to investors in the Falcon Fund, all of which are “qualified purchasers” as defined in Section 2(a)(51)(A) of the IC Act as amended.

Fees may be deducted directly from Falcon Fund accounts or capital may be called directly from investors in the Falcon Fund for this purpose.

Management fees are paid quarterly in advance. In the event of any termination of our services mid-quarter, a pro rata portion of the management fees applicable to such quarter would be refunds to the investors in the Falcon Fund. Carried interest, if any, is distributed quarterly from net cash available for distribution for such purpose.

We have entered into an administrative service agreement with Highland Capital Management, L.P., a Delaware limited partnership (“HCM” or “Highland”) pursuant to which HCM will provide administrative services to the General Partner on mutually agreed terms. Payments from the Falcon Fund to HCM pursuant to the administrative service agreement will be funded solely by the Management Fee.

Falcon’s fees are negotiable, and we have entered into side letters with investors in the Falcon Fund that provide for a reduction in fees set forth above.

In addition to management fees, the Funds are responsible for paying or directly reimbursing the management company for certain expenses, as outlined in the governing documents for each fund.

### Operating Expenses

Operating Expenses shall mean all direct, out-of-pocket costs and expenses reasonably incurred either by the Partnership or by the General Partner thereof on behalf of the Partnership relating to the management, conduct and operation of Partnership business, including (a) the fees and expenses associated with the preparation of the Partnership’s financial statements and the reports and other information to investors, tax returns and Forms K-1, printing expenses, mailing and courier expenses, fees and expenses of establishing bank or custodial accounts and insurance costs and expenses relating to protection against liability for loss and damage which may be occasioned by the activities to be engaged in by the Partnership, (b) the fees, costs and expenses incurred in connection with investigating, negotiating, acquiring, holding, selling or exchanging of Investments (including fees and expenses of lawyers, accountants, consultants, petroleum engineers, geologists, geophysicists, appraisers, brokerage or finder’s fees and investment banker’s fees), (c) fees, costs and expenses of the type described in clause (b) above incurred in connection with potential or proposed but unconsummated transactions, (d) the costs and other amounts

attributable to the Partnership's obligations for insurance policies, (e) the costs and expenses attributable to meetings of the Advisory Committee and of the Partners, and (f) other extraordinary, nonrecurring expenses, including the costs and expenses of prosecuting or defending a litigation claim, any indemnification costs or expenses and any costs to settle claims.

Operating Costs may include similar costs incurred by Affiliates of the General Partner to the extent that the Partnership is required to reimburse such amounts to such Affiliates pursuant to a contract between the Partnership and such Affiliate approved in accordance with the terms of the Agreement of Limited Partnership ("LPA"), but not to the extent governed by any Administrative Services Agreement or Management Services Agreement. Notwithstanding the foregoing, Operating Costs shall not include the ordinary administrative and overhead expenses of the General Partner or any of its Affiliates in connection with the management of the Partnership, including salaries, other compensation and costs of providing benefits, rent and the cost of office equipment. Operating Costs have also not included Organization Costs or placement fees with respect to the admission of Limited Partners to the Partnership of any kind.

The Fund will also bear third party expenses incurred in connection with transactions not consummated. These costs may be deducted directly from the operating accounts of the Falcon Fund.

We do not intend to purchase eligible investments from affiliates.

## **ITEM 6. PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

Falcon is eligible to receive investment profit allocations in the form of carried interest. To the extent that any carried interest payments are distributed, all such payments will comply with the requirements of Section 205(a)(1) of the Investment Advisers Act of 1940 (the “Advisers Act”) and Rule 205-3, thereunder. Carried interest arrangements create an economic incentive to make riskier investments and/or pursue riskier strategies than might otherwise be pursued.

## **ITEM 7. TYPES OF CLIENTS**

As previously stated, our sole advisory client is the Falcon Fund, a Delaware limited partnership. Investors in the Fund are generally institutional investors, high net worth individuals and related entities that are “accredited investors,” and “qualified purchasers,” within the meaning of the Advisers Act and IC Act, respectively. The Falcon Fund is closed to future subscriptions.



## **ITEM 8. METHODS OF ANALYSIS, INVESTMENT STRATEGIES, AND RISK OF LOSS**

### **INVESTMENT STRATEGY**

The Falcon Fund has invested in stand-alone oil and natural gas projects with a focus on the “upstream” or exploration and production (E&P) segment of the domestic oil and natural gas industry.

### **METHOD OF ANALYSIS**

We employ a disciplined investment process beginning with transaction sourcing and diligence and continuing through the management and final sale of the applicable property. Our investment process is structured to capitalize on the strengths of Falcon. Numerous potential investments are screened and analyzed prior to investment. Once an investment is made, we have daily to weekly contact with the operator of the investment property or interest, depending on the stage of the investment, and we continually overlay our macro outlook on the status of the project to determine the desired exit point.

### **MATERIAL RISKS OF SIGNIFICANT STRATEGIES AND METHODS OF ANALYSIS:**

In this section we summarize some of the material risks of our investment strategy and methods of analysis. More complete information about the specific risks associated with an investment in the Falcon Fund is provided in the governing documents for the Falcon Fund. Investments in the Falcon Fund involve the risk of loss that investors should be prepared to bear, including the risk that an investor could lose the entire value of their investment.

#### **Industry Concentration and Diversification**

Because the Fund’s investments are concentrated within a particular industry or related group of industries (the energy sector), an investment in the Fund may be subject to greater market fluctuations than an investment in a portfolio of securities representing a broader range of industries. The aggregate return on an investment in the Fund may be adversely affected by the unfavorable performance of even a single investment.

#### **Lack of Liquidity**

Interests in the Fund (the “Interests”) have not been registered under the Securities Act of 1933, as amended (the “Securities Act”) or any other applicable securities laws. There is no public market for the Interests and none is expected to develop. In addition, the Interests are not transferable except with our consent, which generally we may withhold in our sole discretion, and are subject to the terms and conditions of the LPA. Limited Partners generally may not withdraw capital from the Fund. Consequently, Limited Partners may not be able to liquidate their investments prior to the end of the Fund’s term.

## **Availability of Investments**

We may be unable to identify a sufficient number of attractive investment opportunities for the Fund to meet its investment objectives. In addition, the Fund will be competing for investments against other groups, possibly including direct investment firms, merchant banks, and industrial groups. Other investors may make competing offers for investment opportunities that are identified. Consummating the contemplated investments is subject to a myriad of uncertainties, only some of which are foreseeable or within our control. No assurance can be given that the Fund will be successful in obtaining suitable investments, or that if such investments are made, the objectives of the Fund will be achieved.

## **General Economic Conditions**

General economic conditions may affect the Fund's activities. Interest rates, general levels of economic activity, the price of securities, and participation by other investors in the financial markets may affect the value and number of investments made by the Fund or considered for prospective investment.

## **Unspecified Use of Proceeds**

As of the date of this brochure, we may not have not selected all the investments that we will make for the Fund. Limited Partners will not have an opportunity to evaluate for themselves the relevant economic, financial, and other information regarding the investments we make for the Fund and, accordingly, will be dependent upon our judgment and ability in investing and managing Fund capital. We cannot assure you that we will be successful in obtaining suitable investments, or that if such investments are made, the Fund objectives will be achieved.

## **Leverage**

We may employ leverage at the project entity level with respect to some or all Fund investments. Any such leverage is generally limited to 50% of unfunded commitments. Such leverage will be nonrecourse with respect to the Fund and will be in reasonable amounts relative to the applicable investment's asset base and cash flow. While this leverage component is intended to enhance the equity returns to the investors, the Fund's ability to meet its debt obligations depends on future performance. We do not anticipate incurring any leverage at the Falcon Fund level. General economic conditions, oil and gas prices and financial, business and other factors described herein may affect the Fund's operations and future performance. If the assets of the Fund are insufficient to service the leverage requirements, we may recall distributions previously made to the Limited Partners (subject to certain limitations set forth in governing documents of the Fund) or a default could occur under the terms of the debt. In the event of such a default, an investor could risk losing its entire investment in the Fund.

## **Indemnification**

The Fund will be required to indemnify us and our members, agents, and employees, all of their respective successors, heirs, and assigns, and the Advisory Committee members for liabilities incurred in connection with the affairs of the Fund and otherwise as provided in the Fund's LPA. Such liabilities may be material and may have an adverse effect on the returns to the Limited Partners. For example, we or our affiliates may be subject to claims brought by landowners and other persons holding interests in and to the properties. The indemnification obligation of the Fund would be payable from the assets of the Fund, including the unfunded capital commitments of the Limited Partners. If the assets of the Fund are insufficient, we may recall distributions previously made to the Limited Partners (subject to certain limitations set forth in the LPA).

## **Recourse to the Fund's Assets**

The Fund's assets, including any investment made by the Fund and any funds held by the Fund, are available to satisfy all liabilities and other obligations of the Fund. If the Fund becomes subject to a liability, parties seeking to have the liability satisfied may have recourse to the Fund's assets generally and such recourse may not be limited to any particular asset, such as the asset representing the investment giving rise to the liability.

## **Failure to Make Capital Contributions**

If a Limited Partner fails to pay when due installments of its commitment to the Fund, and the contributions made by non-defaulting Limited Partners and borrowings by the Fund are inadequate to cover the defaulted capital contribution, the Fund may be unable to pay its obligations when due. As a result, the Fund may be subject to significant penalties that could materially adversely affect the returns to the Limited Partners (including non-defaulting Limited Partners). If a Limited Partner defaults, it may be subject to various remedies as provided in the LPA, including without limitation, reductions in its capital account balance.

## **Diverse Limited Partner Group**

The Limited Partners may have conflicting investment, tax, and other interests with respect to their investments in the Fund. The conflicting interests of individual Limited Partners may relate or arise from, among other things, the nature of investments made by the Fund, the structuring or the acquisition of investments, and the timing of disposition of investments. As a consequence, conflicts of interest may arise in connection with the decisions we make, including with respect to the nature or structuring of investments that may be more beneficial for one investor than for another investor, especially with respect to investors' individual tax situations. In selecting and structuring investments appropriate for the Fund, we will consider the investment and tax objectives of the Fund and its Partners as a whole, not the investment, tax, or other objectives of any Limited Partner individually.

### **Importance of Certain Personnel**

The success of the Fund depends in substantial part on the skill and expertise of our principals and other employees and/or contractors. There can be no assurance that our principals or other key personnel will continue to be actively involved in the Fund's activities throughout the life of the Fund. The loss of principals or other key personnel could have a material adverse effect on the Fund.

### **Risk of PetroCap Credit Event**

Although we and the Fund are separate legal entities from PetroCap, in the event that PetroCap were to file for bankruptcy, become insolvent and/or subject to liquidation, or if there were a change of control of PetroCap, the Fund may nonetheless be adversely affected. Such an event could cause the Fund to have difficulty retaining personnel or otherwise adversely affect the Fund and its ability to achieve its investment objectives.

### **Protection of Confidentiality by Investors**

Limited Partners will generally be required to keep confidential all information relating to the Fund (including its investors and investments) and/or its investment results and expectations thereof. To protect the sensitive nature of this information, we, in our discretion, may generally make all or certain confidential information unavailable to all or certain Limited Partners, in some cases based on the status of those Limited Partners.

### **No Right to Control the Fund's Operations**

Limited Partners will have no opportunity to control the day-to-day operations, including investment and disposition decisions, of the Fund. In order to safeguard their limited liability for the liabilities and obligations of the Fund, Limited Partners must rely entirely on us to conduct and manage the affairs of the Fund.

### **Carried Interest**

The fact that our compensation (through Carried Interest distributions to our affiliate) is based on the performance of the Fund may create an incentive for us to cause the Fund to make investments that are more speculative than would be the case in the absence of performance-based compensation.

### **Commodity Prices**

Prices for oil and natural gas are subject to large fluctuations in response to relatively minor changes in the supply of and demand for oil and gas, market uncertainty and a variety of additional factors beyond the Fund's control. These factors include, but are not limited to, weather conditions in the United States, the condition of the United States economy, political stability in the Middle East and elsewhere, the foreign supply of oil and gas, the price of

foreign oil imports, the availability of alternate fuel sources, and transportation interruption. Any substantial and extended decline in the price of oil or gas would have an adverse effect on the value of the Fund's reserves and its revenues, profitability, and cash flows from operations. Volatile oil and gas prices make it difficult to estimate the value of producing properties for acquisition and divestiture and often cause disruption in the market for oil and gas producing properties, as buyers and sellers have difficulty agreeing on such value. Price volatility also makes it difficult to budget for and project the return on acquisitions and development and exploitation projects.

### **Operating Risks**

The operation of oil and gas properties is subject to numerous risks inherent in the oil and gas industry, such as blowouts, cratering, explosions, uncontrollable flows of oil, gas or well fluids, fires, pollution, earthquakes, and environmental risks. These risks could result in substantial losses due to injury and loss of life, severe damage to and destruction of property and equipment, pollution and other environmental damage, and suspension of operations. The Fund's operations could result in liability for personal injuries, property damage, oil spills, discharge of hazardous materials, remediation and clean-up costs, and other environmental damages. The Fund could be liable for environmental damages caused by previous property owners. As a result, substantial liabilities to third parties or governmental entities may be incurred, the payment of which could have a material adverse effect on the Fund's financial condition and results of operations. The Fund will seek to maintain insurance coverage for its operations, including limited coverage for sudden environmental damages, but insurance coverage for environmental damages that occur over time or insurance coverage for the full potential liability that could be caused by sudden environmental damages may not be available at a reasonable cost, and the Fund may be subject to liability or may lose substantial portions of its properties in the event of certain environmental damages.

### **Demand for Oil and Gas**

The Fund's success is materially dependent upon the demand for oil and gas. The availability of a ready market for the Fund's oil and gas production depends on a number of factors beyond the Fund's control, including the demand for, and supply of oil and gas, the availability of alternative energy sources, the proximity of reserves to, and the capacity of, oil and gas gathering systems, pipelines or trucking and terminal facilities. The Fund may also have to shut-in some of its wells temporarily due to a lack of market or adverse weather conditions including hurricanes. In addition, federal and state regulation of oil and natural gas production and transportation, general economic conditions, and changes in supply and demand could adversely affect the Fund's ability to produce and market its oil and natural gas on a profitable basis. Any significant change in the Fund's ability to produce and market its oil and natural gas production could have a material adverse effect on the Fund's financial condition and results of operations.

## **Drilling Risks**

The revenues and operating results of the Fund will be dependent upon the success of the Fund's exploitation, development, and drilling activities. These oil and gas activities involve numerous risks, including the risk that no commercially productive oil or natural gas reservoirs will be encountered. The timing and cost of drilling, completing and operating wells is often uncertain, and drilling operations may be curtailed, delayed or canceled as a result of a variety of factors, including unexpected drilling conditions, pressure or irregularities in formations, equipment failures or accidents, adverse weather conditions, compliance with governmental requirements, and shortages or delays in the availability of drilling rigs and the delivery of equipment.

## **Acquisition Strategy**

The Fund's investment strategy depends on the Fund's ability to acquire oil and gas properties. The Fund may not be able to identify suitable acquisition opportunities or finance and complete any particular acquisition successfully. Furthermore, acquisitions involve a number of risks and challenges, including difficulty in assuming recoverable reserves, future production rates, operating costs, infrastructure requirements, environmental and other liabilities, and other factors beyond the Fund's control. As a result, the Fund may not recover its investment in a property from the sale of production from the property or may not recognize an acceptable return from investments it makes. Any of these factors could adversely affect the Fund's ability to achieve anticipated levels of cash flows from its investments or realize other anticipated benefits of investments.

## **Hedging**

The Fund may seek to reduce exposure to the volatility of oil and gas prices by actively hedging a portion of production. Certain types of hedging contracts could prevent the Fund from receiving the full advantage of increases in oil or gas prices above the fixed amount specified in the hedge agreement. In a typical hedge transaction, the Fund has the right to receive from the hedge counterparty the excess of the fixed price specified in the hedge agreement over a floating price based on a market index, multiplied by the quantity hedged. If the floating price exceeds the fixed price, the Fund must pay the counterparty this difference multiplied by the quantity hedged even if the Fund had insufficient production to cover the quantities specified in the hedge agreement. Accordingly, if the Fund has less production than it has hedged when the floating price exceeds the fixed price, the Fund must make payments against which there are no offsetting sales of production. If these payments become too large, the remainder of the Fund's business may be adversely affected. In addition, hedging agreements expose the Fund to the risk of financial loss if the counterparty to a hedging contract defaults on its contract obligations.

## **Unavailability of Equipment or Personnel**

The energy industry is cyclical and, from time to time, there is a shortage of drilling rigs, equipment, supplies, or qualified personnel. During these periods, the costs and delivery times of rigs, equipment and supplies are substantially greater. In addition, demand for, and wage rates of, qualified drilling rig crews rise with increases in the number of active rigs in service. If the unavailability or high cost of drilling rigs, equipment, supplies, or qualified personnel were particularly severe, the Fund's business could be materially and adversely affected.

## **Terrorist Activities**

U.S. activities in Iraq and recent terrorist attacks of unprecedented scope have caused instability in the world financial markets and may generate global economic instability. The continued threat of terrorism and the impact of military or other action have led to and will likely lead to increased volatility in prices for oil and gas and could affect the Fund's financial results. Further, the United States government has issued public warnings indicating that energy assets might be specific target of terrorist organizations. As a result of such a terrorist attack or of terrorist activities in general, the Fund may not be able to obtain insurance coverage and other endorsements at commercially reasonable prices or at all.

## **Compliance with Anti-Money Laundering Requirements**

In response to increased regulatory concerns with respect to the sources of funds used in investments and other activities, we may request Limited Partners to provide additional documentation verifying, among other things, such Limited Partners' identity and source of funds used to purchase Interests. Requests for documentation and additional information may be made at any time during which a Limited Partner holds an Interest. We may be required to provide this information, or report the failure to comply with such requests, to appropriate governmental authorities, in certain circumstances without notifying the Limited Partners that the information has been provided. We will take such steps as we determine are necessary to comply with applicable law, regulations, orders, directives, or special measures. Governmental authorities are continuing to consider appropriate measures to implement and at this point it is unclear what steps we may be required to take; however, these steps may include prohibiting a Limited Partner from making further contributions of capital to the Fund, depositing distributions which a Limited Partner would otherwise be entitled to in an escrow account, or causing the withdrawal of a Limited Partner from the Fund.

## **Taxation**

Investments in properties in the energy sector may be subject to numerous taxes and fees by the jurisdictions in which such companies are organized or operate. Properties engaged in oil and natural gas operations or having substantial real property holdings, in particular,

may be subject to specific tax regimes, such as petroleum revenue taxes, fees for drilling rights and exploration licenses, oil production fees, real estate taxes, and stamp duties.

### **Tax Treatment**

There may be changes in tax laws or interpretations of such tax laws adverse to the Fund or its Partners. There can be no assurance that the structure of the Fund or of any investment will be tax efficient to any particular Partner. For example, it is anticipated that all or some of the Fund's investments will generate "unrelated business taxable income". Prospective investors are urged to consult their own tax advisers with reference to their specific tax situations, including any applicable U.S. state or local or non-U.S. taxes and, in the case of U.S. tax-exempt and non-U.S. investors, with reference to any special issues that investment in the Fund may raise for such investors. There can be no assurance that the Fund will have sufficient cash flow to permit it to make annual distributions in the amount necessary to pay all tax liabilities resulting from Limited Partners' ownership of Interests.

### **Environmental Liabilities**

The oil and gas business is subject to environmental hazards, such as oil spills, gas leaks and ruptures and discharges of petroleum products and hazardous substances, and historic disposal activities. These environmental hazards could expose the Fund to material liabilities for property damages, personal injuries or other environmental harm, including costs of investigating and remediating contaminated properties. In addition, the Fund also may be liable for environmental damages caused by the previous owners or operators of properties it purchases. A variety of stringent federal, state, and local laws and regulations govern the environmental aspects of the oil and gas business. Any noncompliance with these laws and regulations could subject the Fund to material administrative, civil or criminal penalties, or other liabilities. Additionally, compliance with these laws may, from time to time, result in increased costs of operations or decreased production, and may affect acquisition costs.

### **Cybersecurity Risk**

As the use of technology has grown, there are ongoing cybersecurity risks that make Falcon and the Falcon Fund susceptible to operational and financial risks associated with cybersecurity. To the extent that Falcon is subject to a cyber-attack or other unauthorized access is gained to its systems, Falcon and the Falcon Fund may be subject to substantial losses in the form of theft, loss, misuse, improper release or unauthorized access to confidential or restricted data related to Falcon or the Falcon Fund. Cyber-attacks affecting Falcon's or the Falcon Fund's service providers holding its financial or investor data may also result in financial losses to the Falcon Fund and its investors, despite efforts to prevent and mitigate such risks under Falcon's policies. While measures have been developed which are designed to reduce the risks associated with cybersecurity, there are inherent limitations in such measures and there is no guarantee those measures will be effective, particularly since



Falcon and the Falcon Fund do not directly control the cybersecurity measures of its service providers, financial intermediaries and operating partners with which it does business.

## **ITEM 9. DISCIPLINARY INFORMATION**

There are no disciplinary events that are material to an investor's evaluation of Falcon's advisory business or the integrity of its management.

## ITEM 10. OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS

### NON-ADVISORY AFFILIATES

PetroCap Operating, LLC (“PetroCap Operating”), a wholly-owned subsidiary of PetroCap, LLC, and an affiliate of Falcon, is a provider of oil and gas operations services, including accounting, land management, reporting, field supervision and environmental compliance. PetroCap Operating may also be engaged from time to time to provide services to the operators of some of the properties owned by the Falcon Fund. All such services will be provided on arm’s length terms and disclosed to the Falcon Fund and its investors.

### INVESTMENT ADVISER AFFILIATES

PetroCap, LLC, a SEC-registered investment advisor, is under common control with Falcon.

A related person of James Dondero is the general partner of a number of other collective investment vehicles organized as partnerships including those managed by the following affiliated investment advisers:

#### *Highland Capital Management, L.P.*

Highland Capital Management, L.P., a SEC-registered investment adviser (“Highland” or “HCM”), is under common control with us because James Dondero controls the Highland general partner.

#### *Highland Capital Management Fund Advisors, L.P.*

Highland Capital Management Fund Advisors, L.P., a SEC-registered investment adviser, is under common control with us because James Dondero controls the Highland Capital Management Fund Advisors general partner.

Additionally, Highland Capital Management Fund Advisors serves as advisor to several investment companies registered under the Investment Company Act of 1940, as amended.

#### *Highland Capital Healthcare Advisors, L.P.*

Highland Capital Healthcare Advisors, L.P., a SEC-registered investment adviser, is under common control with us because James Dondero controls its general partner.

*Acis Capital Management, L.P.*

Acis Capital Management, L.P., a SEC-registered investment adviser, is under common control with us because James Dondero controls the Acis general partner.

*Granite Bay Advisors, L.P.*

Granite Bay Advisors, L.P., a SEC-registered investment adviser, is controlled by Mark Okada, Highland's Chief Investment Officer.

*NexPoint Advisors, L.P.*

NexPoint Advisors, L.P., a SEC-registered investment adviser, is under common control with us because James Dondero controls the NexPoint Advisors general partner.

*NexPoint Real Estate Advisors, L.P.*

NexPoint Real Estate Advisors, L.P., a SEC-registered investment adviser, is under common control with us because James Dondero controls the NexPoint Real Estate Advisors general partner.

Highland is party to a Shared Services Agreement with the above advisers, under which Highland provides certain administrative and back office services to such advisers, including finance and accounting, human resources, marketing, investor relations, public relations, paralegal, and information technology services.

Additional information regarding potential conflicts of interest is provided in the section titled Code of Ethics, Participation or Interest in Client Transactions and Personal Trading.

## **ITEM 11. CODE OF ETHICS, PARTICIPATION OR INTEREST IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

We maintain a policy of strict compliance with the highest standards of ethical business conduct and the provisions of applicable federal securities laws, including rules and regulations promulgated by the SEC, and have adopted policies and procedures described in our Code of Ethics. The Code of Ethics applies to each of our “supervised persons” as defined in the Advisers Act. It is designed to ensure that Falcon and its supervised persons fulfill their fiduciary obligations to the Falcon Fund and its investors. All of Falcon’s supervised persons are considered “access persons.”

A complete copy of our Code of Ethics is available to any investor upon request.

### **STANDARDS OF CONDUCT**

We and our access persons are expected to comply with all applicable federal and state laws and regulations. Access persons are expected to adhere to the highest standards of ethical conduct and maintain confidentiality of all information obtained with respect to Falcon Fund matters and bring any risk issues, violations, or potential violations to the attention of our Chief Compliance Officer. Access persons are expected to deal with the Falcon Fund fairly and disclose any activity that may create an actual or potential conflict of interest between access persons and Falcon or the Falcon Fund.

### **ETHICAL BUSINESS PRACTICES**

The firm’s Code of Ethics includes provisions relating to the confidentiality of fund information, a prohibition on insider trading, reporting of certain gifts and business entertainment items, and personal securities trading procedures, among other things. Falsification or alteration of records or reports, or knowingly approving such conduct is prohibited. We seek to outperform our competition fairly and honestly and seek competitive advantages through strong performance not unethical dealings. Access persons are strictly prohibited from (i) participating in online blogging and communication with the media, and (ii) spreading of false rumors pertaining to any publicly traded company.

### **CONFIDENTIALITY**

Access persons must maintain the confidentiality of our proprietary and confidential information and that of the Falcon Fund and must not disclose that information unless the necessary approval is obtained. We have a particular duty and responsibility, as investment adviser, to safeguard the Falcon Fund’s information. Information concerning the identity and transactions of investors is confidential, and such information will only be disclosed to those access persons and outside parties who need to know it in order to fulfill their responsibilities.

## GIFT AND ENTERTAINMENT POLICY

Access persons are permitted, on occasion, to accept gifts and invitations to attend entertainment events. When doing so, however, employees should always act in Falcon's best interests and that of the Falcon Fund and should avoid any activity that might create an actual or perceived conflict of interest or impropriety in the course of our business relationships. Under no circumstances may (i) gifts of cash or cash equivalents be accepted or (ii) may any gifts be received by Falcon or its affiliated or access persons in consideration or recognition of any services provided to or transactions entered into by any limited partner of the Falcon Fund.

## PERSONAL TRADING

### *Personal Trading Policy*

Access persons are allowed to trade reportable securities. However, access persons are required to obtain prior approval from the chief compliance officer before placing trades in publicly-traded companies in the energy sector, including companies that are in the upstream, midstream and downstream oil and gas sectors, as well as companies in the power and infrastructure industries. Access persons are not permitted to trade any security of which we or the Fund own any portion of the capital structure or that is on our restricted list. Access persons who violate the personal trading policy are reprimanded in accordance with the sanctions provisions outlined in the Code of Ethics. Personal securities transactions are reviewed by the Chief Compliance Officer or her designee for compliance with the personal trading policy and applicable SEC rules and regulations.

### *Prohibition against Insider Trading*

We forbid any access person from trading, either personally or on behalf of others, including the Fund, on material non-public information or communicating material non-public information to others in violation of the law or duty owed to another party. This conduct is frequently referred to as "insider trading". The concepts of material non-public information, penalties for insider trading, and processes for identifying insider trading are addressed in detail in the Code of Ethics which is included in Falcon's Compliance Manual.

### *Reporting Requirements*

Per Rule 204A-1 under the Advisers Act, access persons are required to disclose all of their reportable securities holdings and all accounts that hold any securities within 10 days of becoming an access person, and annually thereafter. Additionally, within 30 days after the end of each calendar quarter,

all access persons must report all transactions in reportable securities over which the access person had any direct or indirect beneficial ownership.

## POTENTIAL CONFLICTS

This section describes various potential conflicts that may arise in respect of our business, as well as how we address such conflicts of interest. The discussion below does not describe all conflicts that may arise.

The Fund may be subject to certain conflicts of interest arising out of its relationship with Falcon and our affiliates. Certain provisions of the LPA are designed to protect the interests of the Limited Partners in situations where conflicts may exist, and the Advisory Committee will be consulted on transactions involving conflicts of interest, although these provisions do not eliminate such conflicts of interest. The agreements and arrangements among Falcon, the Falcon Fund, and their respective affiliates, including those relating to compensation, have been established by Falcon and are not the result of arm's-length negotiations.

We or an affiliate may have a role in determining asset values with respect to Fund investments and may be required to price an asset when a market price is unavailable or unreliable. In order to mitigate these conflicts, Falcon and its affiliates determine asset values in accordance with valuation procedures consistent with the Financial Accounting Standard Board's Accounting Standards Codification ("ASC") 820-10 which generally are set forth in the Valuation Policy in Falcon's Compliance Manual.

Certain qualified employees and affiliates have invested in the Fund either through general partner entities, as limited partners or otherwise. We may reduce all or a portion of the management fee, carried interest, or other costs and expenses related to the investments by such persons. However, they are allocated their share of the Fund's expenses.

## **ITEM 12. BROKERAGE PRACTICES**

### **Factors Used to Select Broker-Dealers**

Falcon has not invested the Falcon Fund's assets in publicly-traded securities. Therefore, the selection of broker-dealers does not apply to Falcon

### **Soft Dollars**

We do not receive research or other soft dollar benefits from broker-dealers or other third parties.

### **Best Execution**

Best execution in the traditional sense does not apply to Falcon due to the fact that Falcon is not in the business of buying or selling individual securities. However, Falcon finances its investments in the Falcon Fund and utilizes hedging transactions and will strive to obtain the most favorable financing terms and hedging transactions with the goal of achieving best execution and fulfilling its fiduciary duty to the Falcon Fund and its investors.

### **Brokerage for Client Referrals**

This item is not applicable to Falcon.

### **Directed Brokerage**

This item is not applicable to Falcon.

### **Trade Aggregation**

This item is not applicable to Falcon.



## ITEM 13. REVIEW OF ACCOUNTS

### ACCOUNT REVIEW

Falcon's Investment Committee periodically reviews each investment in the Falcon Fund. The Investment Committee is responsible for assessing and approving investment opportunities for the Falcon Fund. The Investment Committee also evaluates the Fund's objectives along with, among other factors, applicable portfolio restrictions, available cash, investment suitability and investment performance. Investment reviews include quarterly meetings with the Investment Committee, each investment property's operator, and Falcon's engineers and geologists to review each investment's progress.

### NATURE AND FREQUENCY OF REPORTING

We furnish to investors in the Falcon Fund the following written reports:

- audited financial statements annually;
- reserve reports prepared by an independent petroleum engineer at least annually;
- descriptive investment information quarterly, and
- tax information necessary for each Partner's tax returns annually.

The Falcon Fund holds annual meetings to provide Limited Partners with the opportunity to review and discuss with us the Falcon Fund's investment activities and properties.

## **ITEM 14. CLIENT REFERRALS AND OTHER COMPENSATION**

Falcon does not receive any economic benefit from someone who is not a client for providing investment advice or other advisory services to the Falcon Fund, nor have we directly or indirectly paid any compensation to another person if they referred clients to us.

## **ITEM 15. CUSTODY**

Falcon is deemed to have custody of the Falcon Fund's assets because Falcon is the general partner of the Falcon Fund. All assets of the Falcon Fund not invested directly in the Falcon Fund's portfolio companies will be held at a qualified custodian. Pursuant to Rule 206(4)-2 under the Advisers Act, the Falcon Fund is subject to an annual audit conducted by an independent public accountant registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board. The Falcon Fund's audited financial statements, prepared in accordance with generally accepted accounting principles, are distributed to investors within 120 days of the Falcon Fund's fiscal year end.

## **ITEM 16. INVESTMENT DISCRETION**

Falcon manages the Falcon Fund on a discretionary basis, subject to any limitations included in the Falcon Fund's governing documents.

The investment objectives and restrictions of the Fund are set forth in the Fund's governing documents. Investors in the Falcon Fund do not have the authority to impose any restrictions upon Falcon's discretionary authority. However, Falcon has, under certain circumstances, entered into "side letter" agreements with investors in the Falcon Fund to waive or modify the application of any provision of the investment terms applicable to such investor, without obtaining the consent of any other investor in the Fund.

Each investor in the Falcon Fund generally grants the General Partner of the Falcon Fund a limited power of attorney to enable the General Partner to execute the LPA (and certain other limited actions) on its behalf.

## ITEM 17. VOTING CLIENT SECURITIES

### SECURITIES HELD IN CLIENT ACCOUNTS

Our proxy voting policy is intended to ensure proxies or consents, if any, are voted in the best economic interests of the Falcon Fund, without regard to the interests of Falcon or its respective affiliates. Our Board of Managers (our “Board”) evaluates the subject matter of each proxy or consent and votes on behalf of the Falcon Fund in accordance with the Guidelines set forth in the proxy voting policy. Our Board also may determine not to vote proxies with respect to securities of any issuer or consents relating to private portfolio companies, if it determines it would be in the Falcon Fund’s overall best interests not to vote.

If our Board determines that we may have a potential conflict of interest in voting a proxy or consent, the Board will review the issue(s) to determine how to vote in the best interests of the Falcon Fund. If the potential conflict of interest involves a Falcon affiliated entity or involves any other conflict that cannot be adequately resolved by the Board, Falcon will present the proxy or consent vote to the Falcon Fund’s Limited Partner Advisory Committee or Outside Counsel, to determine how to vote the proxy or consent in the best interests of the Falcon Fund.

### OBTAINING A COPY OF THE POLICY

Investors can obtain a copy of the proxy voting policy or information on how we voted proxies or consents by contacting Amanda Coussens our Chief Compliance Officer at [acoussens@petrocap.com](mailto:acoussens@petrocap.com).

## **ITEM 18. FINANCIAL INFORMATION**

Falcon does not require or solicit the prepayment of fees six months or more in advance. Falcon does not have any financial condition that that is reasonably likely to impair our ability to meet any contractual and fiduciary commitments to the Falcon Fund and investors. Falcon has never been the subject of a bankruptcy petition.