



## **Item 1. Cover Page**

# **ACM Advisors Inc. d/b/a Founders Equity Partners Form ADV Part 2A, Brochure**

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This “Brochure” provides information about the qualifications and business practices of ACM Advisors Inc. d/b/a Founders Equity Partners (“FEP” or “Adviser”). If you have any questions about the contents of this Brochure, please contact Matt Moran, Chief Compliance Officer by phone at (757) 617-6559 or email at [matt@fepfund.com](mailto:matt@fepfund.com).

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

FEP is registered as an investment adviser with the United States Securities and Exchange Commission (the “SEC”) under the Investment Advisers Act of 1940 (the “Advisers Act”). Registration as an investment adviser with the SEC does not imply a certain level of skill or training. In addition, the information in this Brochure has not been approved or verified by the SEC or by any state securities authority.

## **Item 2. Material Changes**

This is FEP's annual update of Form ADV Part 2A for the fiscal year ending December 31, 2023. Since FEP's previous annual amendment filed on March 31, 2023, the following material change occurred:

- Effective December 19, 2023, Matt Moran became the Adviser's Chief Compliance Officer.

In addition to the material change mentioned above, the Adviser also made changes, such as

- updated its regulatory assets under management;
- provided clarifying language regarding the Adviser's: advisory business, fees and expenses; language associated with risks, industry affiliates, custody, and financial information; and
- other stylistic modifications to grammar and syntax.

### **Item 3. Table of Contents**

Item 1.	Cover Page .....	1
Item 2.	Material Changes.....	2
Item 3.	Table of Contents .....	3
Item 4.	Advisory Business.....	4
Item 5.	Fees and Compensation.....	5
Item 6.	Performance Based Fees and Side-by-Side Management.....	6
Item 7.	Types of Clients .....	7
Item 8.	Methods of Analysis, Investment Strategies and Risk of Loss.....	8
Item 9.	Disciplinary Information .....	26
Item 10.	Other Financial Industry Activities and Affiliations .....	27
Item 11.	Code of Ethics, Participation or Interest in Client Transactions and Personal Trading ....	28
Item 12.	Brokerage Practices .....	29
Item 13.	Review of Accounts .....	30
Item 14.	Client Referrals and Other Compensation.....	31
Item 15.	Custody.....	32
Item 16.	Investment Discretion.....	33
Item 17.	Voting Client Securities.....	34
Item 18.	Financial Information .....	35

## **Item 4. Advisory Business**

FEP is a Delaware Limited Liability Company founded Robert R. Ackerman, Jr., Howard Lee, and Robert R. Ackerman III, in 2015 and is solely owned by Robert R. Ackerman, Jr. The Adviser manages privately offered investment funds (each, a “Fund,” or “Client” and together, the “Funds” or “Clients”) focused on investing in the technology sector through the purchase of founders’ shares in secondary transactions .

While each of its Funds will follow the general strategy stated above, FEP tailors the specific advisory services with respect to each Fund based on the investment guidelines and restrictions stated in each Fund’s respective “Offering Documents” and/or investment management agreements. FEP does not tailor its investment advisory services to individual limited partners in any of the Funds.

The Adviser does not participate in wrap fee programs.

As of December 31, 2023, FEP advised client assets of \$213,888,109 in regulatory assets under management in four private funds as discussed in Item 7 below. The Adviser managed \$213,888,109 on a discretionary basis and no assets on a non-discretionary basis.

## **Item 5. Fees and Compensation**

### Management Fees

Management fees vary amongst the Funds and are structured based on the investment strategy and operations of the individual Funds. Investors should consult the relevant Offering Documents and agreements for the specific management fee charged to the Fund in which they are invested or are interested in investing.

Generally, FEP and or the respective general partner entity will receive a management fee from the Funds that is typically a percentage of the commitments to the Fund and is tiered based on the life stage of the Fund. Management fees are paid quarterly in advance.

### Fee Offset

If a general partner of a Fund, or any FEP related persons receive transaction, commitment, break-up, advisory, syndication, directors, officers, management, or any similar fees paid by a portfolio company held by a Fund, those amounts will be used to offset future management fees payable by the relevant Fund.

### Expenses

In addition to the fees charged by FEP, investors will bear indirectly other fees and expenses incurred by the Funds including, but not limited to, the following: brokerage and other transaction costs, legal fees; accounting fees; audit fees; custodian fees; costs of insurance; organizational and registration expenses; fund administration fees; and certain offering costs. For more information on brokerage transactions and costs, please see Item 12 Brokerage Practices. Investors should review all fees charged by FEP and the expenses charged to the Funds to fully understand the total amount of fees to be paid. In general, the Funds will pay for the following:

(i) organization and syndication costs (subject to limits in each Funds respective Offering Documents); (ii) legal, accounting, audit, custodial, consulting and other professional fees; (iii) banking, brokerage, broken-deal, registration, qualification, finders, depositary and similar fees or commissions; (iv) transfer, capital and other taxes, duties and costs incurred in acquiring, holding, selling or otherwise disposing of Fund assets; (v) insurance premiums, indemnifications, costs of litigation and other extraordinary expenses; (vi) costs of financial statements and other reports to investors; (vii) costs of meetings of the investors (viii) costs of Fund, general partner, and management company compliance with applicable securities laws and registration or licensing laws arising from the management of, or provision of advice to, the Fund and (x) costs and expenses associated with preparing Fund tax returns, making tax elections and determinations, and similar activities.

## **Item 6. Performance Based Fees and Side-by-Side Management**

Performance based or incentive fees are fees based on a share of capital gains on or capital appreciation of the assets of a client. An adviser charging performance fees to some accounts faces a variety of conflicts because the adviser can potentially receive greater fees from its accounts having a performance-based compensation structure versus those accounts it charges a fee unrelated to performance (e.g., an asset-based fee). As a result, the adviser may have an incentive to direct the best investment ideas to, or to allocate or sequence trades in favor of, the account that pays a performance fee. Furthermore, the fact that FEP is compensated based on the profit generated by a Fund may create an incentive for FEP to make investments on behalf of its Funds that are riskier or more speculative than would be the case in the absence of such compensation.

A general partner of each Fund typically charges an incentive or performance-based, fee to each of the Funds. A general partner typically has the discretion to waive or reduce all or any portion of the performance fees with respect to an investor. Investors should consult the relevant Offering Documents or subscription agreements for the specific Fund in which they are invested, or are interested in investing, for the details on all fees and expenses that are paid by the Funds.

## **Item 7. Types of Clients**

Adviser provides investment advice on a discretionary basis to privately-offered, pooled investment vehicles; the Funds. As the investment manager of the Funds, FEP has overall responsibility to manage and control the business affairs of the Funds, including the exclusive authority to oversee and to establish policies regarding the management, conduct and operation of the business of the Funds. FEP manages the Funds in accordance with the terms of the Offering Documents of applicable to the Funds.

Investments in FEP's Funds are available solely to "Accredited Investors," as that term is defined by the federal securities laws, at a minimum and higher qualifications may be required. Investors who wish to subscribe to any FEP managed Fund will be required to demonstrate their investment qualifications prior to accessing any information regarding FEP's Funds.

Investors into the Funds are not able to redeem their investment prior to the end of the life of the Fund without the approval of a general partner. A general partner will generally not permit early withdrawal unless, in its view, the withdrawal of the investor will not result in any harm or disadvantageous situation for other investors or the Fund. Investors do not have the ability to restrict the investment activities of the Fund beyond those granted in the relevant Fund's legal documents.

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

### Investment Strategy

FEP aims to invest in technology businesses through secondary transactions. Via customized and structured secondary transactions, FEP aims to provide liquidity for founders, early employees, and investors in an organized efficient and discreet manner. FEP aims to be long-term capital partners for its portfolio companies. FEP's investment in a company may start with a single secondary transaction, but the Adviser's platform is designed to support the on-going needs of the portfolio companies as they grow. Through its long-term alignment of interests and information sharing, FEP seeks to meet a company's secondary needs over time, whether through a series of transactions or on-going tender offers, with a minimal level of management effort and distraction.

FEP's partnership is not limited to secondary investments. The Adviser continuously looks for opportunities to leverage its networks of strategic partners and investors to support the growth of FEP portfolio companies. Members of FEP may sit on boards of portfolio companies or participate on committees. In addition, FEP will engage with various venture partners, entities as well as individuals, with regard to the structuring and financing of certain transactions.

### Methods of Analysis

FEP's investment personnel conduct due diligence on potential companies or deals where it believes a Fund may have an interest. The due diligence conducted generally covers a review of the legal agreements surrounding the shares, the financial situation of the company, the current operations, assets and liabilities, projected revenues, among others. After FEP is satisfied that it has a thorough understanding of the transaction, the Adviser will determine whether or not it is suitable for investment by the Fund.

### Risk of Loss

All investing involves the risk of loss of a portion, or all of the capital invested. Investments in the FEP Funds are illiquid and potential investors should consider their ability to bear the loss of all, or a part, of their investment in the Funds. There is no guarantee that any transaction will be profitable or that the Funds in general will be profitable. In addition to the general risk of loss, there are a number of risks specific to the FEP Funds including:

Risks Associated with Portfolio Investments. Identifying and participating in attractive investment opportunities and assisting in the building of successful young/emerging enterprises is difficult. There is no assurance that the Fund's investments will be profitable and there is a substantial risk that the Fund's losses and expenses will exceed its income and gains. Any return on investment to the investors will depend upon successful investments made on behalf of the Fund by a general partner. There often will be little or no publicly available information regarding the status and prospects of portfolio companies. Many investment decisions by the general partners will be dependent upon the ability of its members and agents to obtain relevant information from non-public sources, and a general partner often will be required to make decisions without complete information or in reliance upon information provided by third parties that is impossible or impracticable to verify. The marketability and value of each investment will depend upon many factors beyond a general partner's control. Typically, although a member of a general partner may serve on a



portfolio company's board of directors, each portfolio company will be managed by its own officers (who generally will not be affiliated with the Fund or a general partner). The Fund may hold minority positions in portfolio companies or acquire securities that are subordinated vis-à-vis other securities as to economic, management or other attributes. Portfolio companies may have substantial variations in operating results from period to period, face intense competition, and experience failures or substantial declines in value at any stage. Portfolio companies may need substantial additional capital to support growth or to achieve or maintain a competitive position. Such capital may not be available on attractive terms. The Fund's capital is limited and may not be adequate to protect the Fund from dilution in multiple rounds of portfolio company financing. The public market for technology and other emerging growth companies is extremely volatile. Such volatility may adversely affect the development of portfolio companies, the ability of the Fund to dispose of investments, and the value of investment securities on the date of sale or distribution by the Fund. In particular, the receptiveness of the public market to initial public offerings by the Fund's portfolio companies may vary dramatically from period to period. An otherwise successful portfolio company may yield poor investment returns if it is unable to consummate an initial public offering at the proper time. Even if a portfolio company completes a successful public offering, the Fund or the investors may be prevented from disposing of the portfolio company's securities for a material period of time due to a contractual "lock-up," applicable law or other restrictions. Similarly, the receptiveness of potential acquirors to the Fund's portfolio companies will vary over time and, even if a portfolio company investment is disposed of via a merger, consolidation or similar transaction, the Fund's stock, security or other interests in the surviving entity may not be marketable. There can be no guarantee that any portfolio company investment will result in a liquidity event via public offering, merger, acquisition or otherwise, and there is a significant risk that the Fund's investments will yield little or no return. Generally, the investments made by the Fund initially will be illiquid and difficult to value, and there will be little or no collateral to protect an investment, once made. At the time of the Fund's investment, a portfolio company may lack one or more key attributes (e.g., proven technology, appropriate patent protection, marketable product, complete management team, or strategic alliances) necessary for success.

Many or most of the Fund's portfolio companies will be dependent for their success upon the development, implementation, marketing and customer acceptance of new technologies that can be rendered obsolete or otherwise unattractive at any time. In some (possibly most) cases, the success of the Fund's portfolio companies will depend upon the development of business, technology or other "ecosystems" that may or may not reach critical mass during the relevant time period. In particular, there have been many examples of technology-related investments that failed to produce attractive returns simply because they were made too early in the development of such ecosystems, and there can be no assurance that the Fund will make investments at the proper time to achieve its investment goals. In most cases, investments will be long term in nature and may require many years from the date of initial investment before disposition. It is likely that the Fund will still hold some illiquid securities at the time of the Fund's dissolution, with the result that such securities may be distributed in-kind or sold for a price that reflects their illiquid nature.

It is anticipated that a portion of the Fund's investment portfolio will consist of securities issued by publicly traded companies (e.g., as the result of a direct investment in publicly traded securities, an initial public offering effected by a previously private portfolio company, or acquisition of a private portfolio company by a publicly traded company). The fact that a portfolio company is publicly traded will not necessarily reduce the business and other risks associated with an investment in such company. For example, the last few decades have seen multiple periods during

which early-stage companies have been able to effect initial public offerings, and the stage at which companies are able to complete an initial public offering varies in different markets around the world. Moreover, investments in publicly traded companies often are subject to additional risks, such as increased risks of litigation and greater securities law and other regulatory burdens, as well as risks associated with “insider trading” and similar rules.

Risks Associated with Secondary Investments in Portfolio Companies. In addition to the general risks associated with portfolio company investments (see “Risks Associated with Portfolio Investments” above), the Fund’s intended focus on secondary direct investments presents specialized risks. While the secondary direct investment market has grown substantially in recent years, it remains a young market relative to more established venture capital/private equity markets. Thus, it may be more prone to rapid swings in the level of market activity, highly variable inflows and outflows of competitors, changing deal terms and conditions, and other attributes of a young, developing marketplace. Moreover, the members of a general partner have achieved their prior levels of success at times when the market was even less developed than it is at present, and they may face a variety of new or enhanced hurdles, challenges or difficulties as the market matures. For example, website operators recently have begun to create quasi-public markets for secondary direct interests and may achieve greater success in the future, with corresponding detriment to the Fund’s more proprietary approach.

Sellers of secondary interests may be passive investors or otherwise have little insight into the true value of such interests and little information to share with a general partner other than reports that have been generated and provided by the prospective portfolio company’s management. The management of a prospective portfolio company may not be willing to assist a general partner in conducting factual investigation and analysis (“diligence”) with respect to the prospective portfolio company and may be under no obligation to do so. There can be no assurance that the prospective portfolio company’s management will be inclined to cooperate with a general partner’s efforts at diligence or to take such other steps as are necessary to facilitate an investment by the Fund. The securities that the Fund will seek to acquire on a secondary basis may be subject to substantial limitations on transferability including, without limitation, prohibitions on transfer, tag-along or drag-along rights, or rights of first refusal. Otherwise attractive investments may be impracticable or impossible to consummate due to such limitations. Once a general partner has identified an attractive secondary investment opportunity, and gained access to that opportunity, the terms and conditions of investment may not be ideal. As a secondary purchaser, the Fund will be less likely to obtain a portfolio company board seat or similar position of the type often available to direct investors and therefore may be less able to protect its interests. Overall, the Fund may have fewer rights to influence portfolio company management than if it were a primary investor.

As a secondary purchaser, the Fund may be required to devote substantial time, effort and resources in seeking to obtain clean title to the securities that it acquires (particularly when the seller is an individual). These efforts may not always be fully successful. The Fund’s intended investment program includes the accumulation of substantial positions in portfolio companies by means of many incremental investments. Such an approach may result in substantially greater costs per dollar invested relative to typical venture/private equity funds that often invest larger amounts via a smaller number of transactions. The Fund’s intended investment program is based, in significant part, on assumptions regarding the supply of investments available for purchase. That supply is subject to many circumstances beyond a general partner’s control. For example, an unexpectedly active IPO market might significantly reduce the supply of investments available to the Fund by making it

possible for erstwhile sellers to cash-out via public market transactions.

Long-Term Investment. An investment in the Fund is a long-term commitment and there is no assurance of any distribution to the investors. Under rules set forth in the Fund's legal documents, a general partner may extend the Fund's period of liquidation to resolve outstanding obligations of the Fund. In particular, when selling or similarly disposing of portfolio securities, the Fund may (as a commercial matter) be required to undertake tax or other indemnification obligations with terms extending beyond the ordinary term of the Fund, with the result that the Fund may retain assets during an extended liquidation period to help ensure satisfaction of such obligations before the Fund's final termination.

Limited Transferability of Interests; Withdrawals. The Fund's legal documents and applicable securities laws will impose substantial restrictions upon the transferability of Fund interests. There is no public or other market for Fund interests and it is not expected that such a market will develop. Withdrawal of investors from the Fund generally will not be permitted, although the legal documents may specify certain circumstances under which an investor may be entitled, or required, to withdraw from the Fund. A withdrawn Limited Partner may not be entitled to immediate payment for its interest in the Fund. Any withdrawal of an investor may reduce the amount of Fund capital available for investment or other activities.

Competition. The venture capital/private equity business is highly competitive, and has become more so in recent years due to a substantially increased flow of capital into venture capital/private equity funds and similar investment organizations. The Fund and a general partner will be competing with other established funds and investment organizations with substantial resources and experience. Moreover, the volume of attractive investment opportunities varies greatly from period to period. There can be no assurance that the Fund will be able to make investments on attractive terms, and it is possible that the Fund's term will expire before the Fund has invested all of its available capital.

Changes in Environment. The Fund's investment program is intended to extend over a period of years, during which the business, economic, political, regulatory, and technology environment within which the Fund operates is expected to undergo substantial changes, some of which may be adverse to the Fund. A general partner will have the exclusive right and authority (within limitations set forth in the Fund's legal documents) to determine the manner in which the Fund shall respond to such changes, and investors generally will have no right to withdraw from the Fund or to demand specific modifications to the Fund's operations in consequence thereof. Prospective investors are particularly cautioned that the investment sourcing, selection, management and liquidation strategies and procedures exercised by members of a general partner in the past may not be successful, or even practicable, during the Fund's term.

Broad Investment Authority of a general partner. The Fund's investment sourcing, selection, management and liquidation strategies and procedures may deviate from those described in the Brochure for a variety of reasons including changes in the external environment within which the Fund operates as well as challenges and opportunities faced by the Fund's portfolio companies. Subject only to the limits set forth in the Fund's legal documents, a general partner will have broad authority to implement, expand, contract, adapt and otherwise modify the Fund's investment sourcing, selection, management and liquidation strategies and procedures in such manner as the general partners determines to be appropriate.

Reliance on Individual Members of a general partner. The Fund will be particularly dependent upon the efforts, experience, contacts and skills of the individual members of the general partners. The loss of any such individual could have a material, adverse effect on the Fund, and such loss could occur at any time due to death, disability, resignation or other reasons. Moreover, except as specifically provided in the legal documents, the members of the general partners will not be required to devote their time and attention exclusively to the Fund. Additional members may be admitted to a general partner following the Fund's initial closing and the investors will have no power to prevent any specific person from being admitted to a general partner as a member thereof. Within a general partner, the economic, voting and other rights of the individual members of a general partner will be determined by agreement among such members and will be subject to change, without notice to the investors, from time to time. The investors will not be permitted to evaluate investment opportunities or relevant business, economic, financial or other information that will be used by a general partner in making decisions. Except as specifically provided in the legal documents, a general partner will have the exclusive right and power to manage the Fund's business and affairs. Some or all of the members of a general partner may lack substantial prior experience managing an investment fund such as the Fund and/or working with other members of the general partners.

Reliance on Third Parties. A general partner and the Fund may require, and rely upon, the services of a variety of third parties, including but not limited to attorneys, accountants, bankers, brokers, custodians, consultants (including "finders" and similar persons engaged to assist with the development and exploitation of portfolio deal flow, as well as "experts" and similar persons engaged to assist with the assessment of technologies, markets and other matters) and various other persons or agents. A general partner and its affiliated management/advisory entities may also utilize the services of non-executive directors who provide such services on a professional basis and are not primarily part of any single venture capital/private equity firm. Failure by any of these third parties to perform their duties or otherwise satisfy their obligations to the Fund could have a material adverse effect upon the Fund. Except as otherwise provided in the Fund's legal documents, the fees and costs associated with such third parties will be paid by the Fund.

Investor Defaults. Investors generally will not contribute the full amount of their capital commitments to the Fund at the time of their admission to the Fund. Instead, they will be required to make incremental contributions pursuant to capital calls issued by a general partner from time to time. Investors that fail to satisfy capital calls in a timely manner generally will be subject to significant penalties as described elsewhere in this Memorandum. Nevertheless, investors may default upon capital calls for a variety of reasons including their own insolvency, bankruptcy or subjective determination that default is more attractive than compliance.

Under certain circumstances, some investors may be prohibited or excused from making capital contributions under the terms of the Fund's legal documents or applicable law. For example, investors that are regulated under ERISA or a comparable law may be prohibited or excused from making capital contributions if the Fund were deemed to hold "plan assets." Similarly, some governmental or quasi-governmental investors may be prohibited from making contributions or payments that are in the nature of indemnification payments.

Some investors may participate in the Fund through their own special purpose vehicles or other structures that have the effect of limiting the Fund's recourse against such investors for amounts not

paid or contributed.

Any failure by investors to make timely capital contributions in respect of their capital commitments (or to make any other payments required under the legal documents or applicable law) may impair the ability of the Fund to pursue its investment program, force the Fund to borrow, or cause other damage. If a particular investor fails to make a contribution or other payment, other investors may effectively bear the burden of such Limited Partner's share of Fund-related costs or expenses.

Notwithstanding the foregoing, a general partner generally will be under no obligation to confirm the creditworthiness of any investor before or after admitting such investor to the Fund as an investor, nor will a general partner be under any obligation to exclude from the Fund any investor based on creditworthiness-related considerations.

Reserves. In managing the Fund, a general partner will establish reserves for follow-on investments in portfolio companies, operating expenses (including management fees payable to a general partner), Fund liabilities, and other matters. Estimating the amount necessary for such reserves will be difficult, particularly because follow-on investment opportunities will be directly tied to the success and capital needs of portfolio companies. As set forth in the Fund's legal documents, a general partner's authority to cause the Fund to borrow will be strictly limited, which will further increase the difficulty of estimating the proper size of reserves.

Inadequate or excessive reserves could have a material adverse effect upon the investment returns to the investors. For example, if reserves are inadequate, the Fund may be unable to take advantage of attractive follow-on or other investment opportunities or to protect its existing investments from dilutive or other punitive terms associated with a "pay-to-play" or similar investment round. If reserves are excessive, the Fund may decline attractive investment opportunities or hold unnecessary amounts of capital in money market or similar low-yield accounts.

Dilution. Following the Fund's initial closing, a general partner will be authorized to admit additional investors (or accept increased capital commitments from existing investors) during a specified period (the "Open Window Period"). For purposes of allocating Fund profit and loss, all capital commitments made during the Open Window Period generally will be treated as if made at the Fund's initial closing. In consequence, additional investors (or existing investors that increase their capital commitments) may effectively "buy into" the Fund during the Open Window Period at a price that does not necessarily reflect changes in the value of the Fund's assets subsequent to the initial closing.

Conflicts of Interest. The Fund will be subject to various potential conflicts of interest. For example, members of a general partner may receive directors' fees or similar compensation from portfolio companies of the Fund. While such fees may trigger a "management fee offset" as described in Item 5 above, under the Fund's legal documents (pursuant to which management fees payable to the general partners by the Fund may be reduced as an offset against fees received by the general partners or its members from portfolio companies), there is no assurance that the Fund will economically benefit from any particular portfolio company fees received by a general partner or its members. Moreover, a management fee offset generally will not apply in respect of fees received by persons who are not members of a general partner, even if such persons hold titles such as entrepreneur-in-residence, executive-in-residence, operating partner, venture partner or venture advisor.

Under certain circumstances, members or affiliates of a general partner may make venture capital/private equity investments separate and apart from, or alongside with, the Fund. As set forth in the Fund's legal documents, a general partner and its members will be permitted to manage other investment funds and similar vehicles (including vehicles that co-invest with the Fund) during the Fund's term, any of which may compete with the Fund for investment opportunities, management time and attention, or otherwise. Under certain circumstances, the Fund may invest in companies in which members of the general partners have a pre-existing interest or subsequently acquire an interest via different investment funds or other means. Among other considerations, when members of a general partner hold interests in portfolio companies other than through the Fund, those interests may substantially differ from the Fund's interests in such companies due to differences in liquidation preference, voting rights or other investment terms. This may result in such members having personal investment interests that directly conflict with the interests of the Fund. Members or affiliates of a general partner may, in connection with their management of other venture capital/private equity funds or otherwise, enter into (or have entered into) noncompetition or similar agreements that effectively preclude the Fund from taking advantage of certain investment acquisition or disposition opportunities or otherwise adversely impact the Fund.

Portfolio companies of the Fund may come into competition with other companies in which members of a general partner have an interest via different investment funds or other means. In addition, portfolio companies of the Fund may acquire, or be acquired by, portfolio companies of other investment funds. Provisions contained within the Fund's legal documents that authorize a general partner or its members to engage in investment, management or other activities outside, or alongside with, the Fund, or to cause the Fund to make investments (or otherwise approve transactions) in respect of which members of a general partner have conflicting interests, will override certain common law and statutory fiduciary duties that would apply in the absence of such provisions and (in particular) may place the investors in a materially less favorable position than if a general partner and its members engaged in no activities other than managing the Fund or were otherwise subject to unmodified fiduciary duties to the Fund and the investors. For example, such provisions may enable the members of a general partner to direct attractive investment opportunities to persons other than the Fund or to place themselves in a conflict situation pursuant to which they are incentivized to exercise voting rights in respect of specific portfolio securities in a manner that harms the Fund but benefits other investment funds/persons with which such members are associated. The Fund's legal documents will contain certain protections for investors against conflicts of interest faced by a general partner and its members, but will not purport to address all types of conflicts that may arise. Moreover, as a practical matter, it may be difficult for investors to subject the behavior of the general partners and its members to close scrutiny.

Except to the limited extent specifically provided in the Fund's legal documents, investors should assume that the Fund will not have a "right" to participate in any investment opportunity made available to a general partner or its members, and that any such opportunity may be presented to other persons.

Under the legal documents, certain transactions that involve conflicts of interest between a general partner and the Fund may be submitted to an "Advisory Committee" composed of a selection of investors in the relevant Fund, for resolution. However, the Advisory Committee will not necessarily represent the interests of all investors and the members of the Advisory Committee may themselves be subject to various conflicts of interest (including as investors in other entities related to members

of general partners). In general, the investors will not be entitled to control the selection of Advisory Committee members or to review the actions or deliberations of the Advisory Committee. During the Fund's term, many different types of conflicts of interest may arise and this Memorandum does not purport to identify all such conflicts.

Risks relating to conflicts of interest are not limited to conflicts affecting a general partner or its members. The investors are expected to have widely differing interests on a variety of tax, regulatory, business, investment profile and other issues. This may, in turn, give rise to a number of risks that the investors as a group will not act in a manner consistent with the best interests of the investors as a group or the best interests of the Fund itself. For example, an investor may decline to provide its consent to a proposed action by the Fund or a general partner due to goals or incentives that are unique to such investor and in conflict with the interests of the Fund or other investors. Furthermore, conflicts of interest among the investors likely will make it impracticable for a general partner to manage the affairs of the Fund in a manner that is viewed as optimal by all investors, and a general partner will be under no obligation to do so. In general, prospective investors should assume that a general partner will not take their unique interests into account when managing the Fund's affairs.

In assessing the impact of provisions of the Fund's legal documents that purport to limit, modify or eliminate certain fiduciary duties of a general partner or its members, prospective investors are cautioned against assuming that such provisions will apply, under all circumstances, as written. The laws governing partnerships and investment activities are complex and, in certain cases, do not permit investor protections to be overridden by a contract such as the Fund's legal documents. Thus, under certain circumstances, investors may have greater rights than would be apparent from a straightforward reading of the Fund's legal documents. In connection with any such circumstance, prospective investors and investors are urged to consult with their own legal counsel. The purpose of this paragraph is not to minimize the concerns of prospective investors regarding conflicts of interest, nor is it intended to undermine the cautions and considerations described elsewhere in this Memorandum. Rather, this paragraph is intended solely to caution prospective investors against assuming the efficacy of limitations on their rights. It should be noted that the considerations identified in this paragraph are not limited to provisions that purport to limit, modify or eliminate fiduciary duties (and, indeed, under specific circumstances, such considerations may apply to nearly every provision of the Fund's legal documents).

Relationship with general partners / Affiliates. Except as otherwise specifically provided in the Fund's legal documents, there is no assurance that the Fund will be offered any specific investment opportunities that come to the attention of a general partner or that the Fund will be permitted to invest the full amount it desires to invest in any such opportunity that is made available. In many cases, the apportionment of investment opportunities among affiliates of the general partners will be subject to a general partner's discretion.

Economic Interest of general partners. Because the percentage of profits allocated to the general partner will exceed the capital contribution percentage of a general partner, and because certain net losses otherwise allocable to a general partner will be specially allocated to all the investors (up to the point that the investor's capital account balances reach zero), the general partners may have an incentive to make investments that are riskier or more speculative than if a general partner received allocations on a basis identical to that of the investors or were compensated on a basis not tied to the performance of the Fund. Moreover, the members of a general partner generally will benefit from

management fees paid by the Fund even if the Fund is not profitable. Among other things, this arrangement may incentivize a general partner to maintain the existence of the Fund (or to defer causing the Fund to dispose of portfolio assets) for the purpose of maintaining the payment of management fees.

Expenses. The Fund's legal documents contain detailed provisions regarding the apportionment of expenses between a general partner/Adviser (on the one hand) and the Fund (on the other hand). As a general matter, a general partner and the Adviser must bear their own internal costs of existence and operations, such as rent, member/employee salaries, and their own internal financial reporting and tax preparation. In general, the Fund must pay management fees to a general partner (the right to receive such fees may be assigned by a general partner to the management Company) as well as substantially all other expenses associated with the organization, existence and operations of the Fund. As described in the legal documents, expenses to be borne by the Fund generally include, without limitation, expenses associated with the formation of a general partner itself (because a general partner, as an entity, has been (or is being) created specifically in connection with the Fund), costs of marketing/placing interests in the Fund (other than actual fees paid to a placement agent, if any), legal and other fees associated with the formation of the Fund (including fees charged by attorneys representing a general partner/Fund for negotiations with prospective investors), virtually all out-of-pocket costs associated with identifying, acquiring, monitoring, improving and disposing of Fund investments (including fees paid to "finder" and costs associated with broken deals), costs of hedging against changes in the value of Fund assets or obligations, most costs associated with litigation (or threats of litigation) against the Fund, the general partners, the Adviser, or the members/employees of a general partner or the Adviser, the costs of preparing Fund financial statements, tax returns and other reports, the fees of attorneys, accountants, consultants, brokers, advisors and other third parties, reasonable costs of in-house legal and tax professionals employed by a general partner or the Adviser to the extent they provide services that otherwise would have been provided by third party attorneys or accountants, and costs associated with certain securities law and similar compliance obligations imposed upon a general partner or the Fund. The cost of fees paid by the Fund may be very substantial. For example, a general partner may engage third parties on behalf of the Fund to identify/source investment opportunities, perform analysis/diligence in respect of potential investments, technologies, markets, or other issues, or provide portfolio companies with advice, guidance or other benefits. The apportionment of expenses inherently creates conflicts of interest between a general partner and the Fund. For example, in many cases, the same individual could be admitted or engaged as a member or employee of a general partner or Adviser (in which case, a general partner or the Adviser generally would bear the expense of such individual's salary, etc.) or as a consultant/advisor (in which case the Fund or a portfolio company generally would bear the expense of fees paid to such individual). In general, investors will have no right to require that any particular individual be admitted, engaged or retained as a member or employee of a general partner or the Adviser, with the result that decisions regarding such matters generally will be made by a general partner and the Adviser on the basis of their own interests (e.g., their own determinations as to the appropriate size of their organizations). Related to the foregoing, investors should be aware that an individual designated as an entrepreneur-in-residence, executive-in-residence, operating partner, venture partner, venture advisor or in similar manner may be compensated by a general partner or the Adviser (e.g., as member or employee), by the Fund (e.g., as a consultant to the Fund), or by a portfolio company (e.g., as a consultant to, or founder/officer/director/employee of, such portfolio company) generally as determined by a general partner or the portfolio company in its discretion. In certain cases, a portfolio company may reimburse the general partners or the Adviser for costs that otherwise would be borne by the general



partners or the Adviser under the legal documents. In general, the Fund would not be entitled to benefit from any such reimbursement.

The Fund may incur expenses in connection with a potential investment that is expected to be made by the Fund along with one or more co-investors. As a general matter, the Fund will be obligated to pay all of its expenses in connection with an investment opportunity that is considered by the Fund, even if the investment is not consummated, and even if potential co-investors do not agree to pay any share of such expenses. To the limited extent set forth in the Fund's legal documents, a general partner is obligated to apportion expenses among the Fund and certain other funds affiliated with a general partner. However, many other types of circumstances may arise. For example, a general partner (or a member or affiliate thereof) may attempt to create a special purpose vehicle or similar entity that will complete its formation and otherwise be in a position to bear expenses relating to a potential co-investment only if the co-investment is consummated. Thus, there may be no third party that has agreed to share expenses with the Fund if the co-investment is not consummated, with the result that the Fund may bear all of its expenses notwithstanding that third parties may have benefitted from the opportunity to review, investigate and otherwise assess the potential co-investment. The general partners will have no obligation to prevent such circumstances from arising. Except as specifically provided in the Fund's legal documents, a general partner will have no obligation to manage the partnership's affairs in a manner that avoids advantage to the general partners resulting from the methods of apportioning expenses set forth in the legal documents. Overall Costs. From the perspective of an investor, such investor's share of expenses to be borne by the Fund (including management fees and other expenses not borne by a general partner/Adviser) together with the dilution of such investor's share of Fund profit resulting from a general partner's carried interest effectively constitute (as a matter of economics, although not necessarily for accounting, regulatory or tax purposes) a cost of investing into portfolio securities through the Fund. Viewed from this perspective, when compared with many other types of investment opportunities, the Fund is relatively high-cost. Prospective investors should invest in the Fund only after having made their own determination that the potential benefits of investing in the Fund outweigh the corresponding costs. As noted elsewhere in this Memorandum, an investment in the Fund is high-risk, and there can be no assurance that the Fund will generate sufficient profits to outweigh such costs.

Side Agreements. In accordance with common industry practice, a general partner may enter into one or more "side letter" or similar agreements with certain investors pursuant to which a general partner grants to such investors specific rights, benefits or privileges that are not made available to investors generally. Such agreements will be disclosed only to those actual or potential investors that have separately negotiated with general partners for the right to review such agreements.

Governmental Plan Ethics Agreements. A general partner (acting on behalf of general partners or the Fund) may enter into one or more agreements that have, as their principal purpose, the prevention, minimization, disclosure, monitoring or remedy of corruption or other unethical or inappropriate behavior in connection with any investment in, or other dealings with, the Fund by a governmental or quasi-governmental agency (such as a retirement plan for governmental or quasi-governmental employees). No prevailing market standard for such agreements exists, and it is possible that any such agreement may provide a governmental or quasi-governmental investor with rights or preferences (e.g., withdrawal rights) that are not available to other investors and may, under certain circumstances, be contrary to the best interests of the Fund. Such agreements will be disclosed only to those actual or potential investors that have separately negotiated with a general partner for the

right to review such agreements.

Capital Calls. Capital calls will be issued by the Fund from time to time at the discretion of the general partners, based upon a general partner's assessment of the needs and opportunities of the Fund. To satisfy such calls, investors may need to maintain a substantial portion of their capital commitments in assets that can be readily converted to cash. Except as specifically set forth in the Fund's legal documents, each investor's obligation to satisfy capital calls will be unconditional. Without limitation on the preceding sentence, an investor's obligation to satisfy capital calls will not in any manner be contingent upon the performance or prospects of the Fund or upon any assessment thereof provided by a general partner. Notwithstanding the foregoing, a general partner will not be obligated to call 100 percent of the investor's capital commitments during the Fund's term.

Consequences of Failure to Make Contribution in Full. If an investor fails to satisfy any capital call on a timely basis, a general partner may elect to cause the defaulting Partner to forfeit up to 50 percent of any future profits (but not losses) that otherwise would have been allocable to the defaulting Partner as well as up to 50 percent of the defaulting Partner's then existing capital account balance. A general partner may require that the remainder of the defaulting Partner's capital commitment be canceled, and may designate a person to assume the entire unpaid balance of the defaulting Partner's commitment and succeed to all of the rights of the defaulting Partner with respect thereto. A general partner may pursue any available legal or equitable remedies, with the expenses of collection of the unpaid amount, including attorney's fees, to be paid by the defaulting Partner. A general partner will be granted additional powers to deal with defaulting investors in the Fund's legal documents. Accordingly, a Limited Partner that fails to satisfy a substantial number of capital calls, or that remains in default for a substantial period of time, may effectively be required to forfeit its entire interest in the Fund, while remaining obligated to satisfy its entire capital commitment.

Distributions in Kind. It is anticipated that the Fund will from time to time distribute portfolio company securities to the investors. Except as specifically provided in the Fund's legal documents, such distributions will be made solely at the discretion of a general partner. Distributed securities may be subject to a variety of legal or practical limitations on sale. In particular, immediately following a distribution of securities, trading volume may be insufficient to support sales by the investors without such sales triggering a price decline which makes it difficult or impossible for all investors to sell such securities at the distribution price. Nevertheless, the distribution price of such securities will be established under the provisions of the Fund's legal documents and will not be adjusted to reflect actual sale prices obtained by the investors.

Freedom of Information/Sunshine Laws. Under "freedom of information", "sunshine", "public record" and similar laws, certain governmental or other regulated entities such as state universities and pension funds may be required to publicly disclose confidential information regarding the Fund or its portfolio companies, notwithstanding contractual obligations (such as those contained in the Fund's legal documents) to the contrary. Any such disclosure could have a material adverse effect upon the Fund or its portfolio companies, and could even expose the Fund, a general partner or the members of a general partner to claims for damages brought by portfolio companies or other persons related thereto. Nevertheless, the Fund's legal documents will not prohibit such entities from being admitted to the Fund.

No Assurance of Confidentiality. As part of the subscription process and otherwise in their capacity

as investors, investors will provide significant amounts of information about themselves to a general partner and the Fund. Under the terms of the Fund's legal documents as well as applicable laws, such information may be made available to other investors, third parties that have dealings with the Fund, and governmental authorities (including by means of securities law-required information statements that are open to public inspection).

Concentration of Investments. The Fund's portfolio may become concentrated in a limited number of companies in certain high technology or other industries, increasing the vulnerability of the portfolio as compared with a portfolio that is more diversified. In certain cases, the Fund may acquire majority or greater interests in portfolio companies, which could further increase the vulnerability of the portfolio.

Functional Currency. The functional currency of the Fund will be United States dollars. Capital commitments of the investors, capital contributions, and distributions of cash generally will be stated, made or payable in United States dollars. An investor whose functional currency is not United States dollars will bear substantial risks associated with fluctuating currency exchange rates, particularly with regard to capital contributions that may not become due for several years.

Non-United States Investments. The Fund may invest in securities of non-United States portfolio companies. Such investments may present a variety of risks not presented by investments in United States portfolio companies, including risks associated with: (i) fluctuating currency exchange rates; (ii) limitations on currency exchange or the transfer of capital/profits across international boundaries; (iii) different accounting standards; (iv) different legal protections for investors; (v) unusual regulatory burdens; (vi) political instability; and (vii) multiple taxing jurisdictions.

Even those portfolio companies that nominally are United States portfolio companies by virtue of their jurisdiction of organization or management headquarters may be exposed to significant non-United States risks due to the increasingly international nature of many early stage technology companies (which may, for example: (i) rely upon international location or outsourcing of research, development, manufacturing or other operations; (ii) seek alliances with non-United States partners; or (iii) seek non-United States customers). Any adverse change to the political, economic, military or social environments in the host countries of the Fund's portfolio companies could have a significant adverse effect upon the operations or financial performance of the Fund.

Limited or No Control over Portfolio Companies. A general partner generally will not seek control over the management of the portfolio companies in which the Fund invests, and the success of each investment generally will depend on the ability and success of the management of the portfolio company. The Fund will almost always invest in companies in which other venture capital/private equity firms have made equity investments. Unlike many venture capital/private equity firms, the Fund typically will not have the right to designate a member of the board of directors of its portfolio companies, with the result that other investors are expected to have more influence in decisions made by and affecting portfolio companies. The mere fact that general partners disagree with decisions made by other investors in a portfolio company likely will not trigger any particular ability of the Fund to dispose of its investment in such portfolio company, with the result that the value of the Fund's investment in a portfolio company may be materially impacted by the decisions of other investors.

Service on Boards of Directors, Material Non-Public Information, Etc. Individual members of a

general partner may serve as officers or directors of portfolio companies. In their capacity as officers or directors (or even simply by virtue of the Fund's status as a significant shareholder of a portfolio company), such individuals may become subject to fiduciary or other duties which adversely affect the Fund. For example, the Fund may be unable to sell or otherwise dispose of portfolio securities if a member of a general partner is in possession of material, non-public (i.e., "inside") information relating to the issuer thereof. Nevertheless, the Fund's legal documents will not preclude members of a general partner from serving as officers or directors of portfolio companies or otherwise acquiring material, non-public information regarding portfolio companies. Conversely, the Fund's legal documents will not require that members of a general partner serve as officers or directors of portfolio companies, and there can be no assurance that a general partner will have a legal right to influence the management of any portfolio company or companies.

In general, if there is a conflict between the fiduciary duties of a general partner or a member thereof to a portfolio company and such person's fiduciary duties to the Fund or the investors, such person's fiduciary duties to the portfolio company will prevail.

Litigation Risks. The Fund will be subject to a variety of litigation risks, particularly as a consequence of the substantial likelihood that one or more portfolio companies will face financial or other difficulties during the term of the Fund's investment. For example, it is anticipated that individual members of a general partner may actively assist portfolio companies in differing capacities (including, without limitation, by serving as officers, directors, or advisors). The Fund may also participate in portfolio company financings at implicit portfolio company valuations lower than the valuations implicit in preceding rounds of financing, vote portfolio company shares in a manner contrary to the interests of other shareholders, or be exposed to flow-through liability for portfolio company debts and obligations (e.g., under laws governing liability for environmental damage). In the event of a dispute arising from any of the foregoing activities (or other activities relating to the operation of the Fund or a general partner), it is possible that the Fund, a general partner, or the members of a general partner may be named as defendants.

Under most circumstances, the Fund will indemnify a general partner and its members for any costs they incur in connection with such disputes. Beyond direct costs, such disputes may adversely affect the Fund in a variety of ways, including by distracting a general partner and harming relationships between the Fund and its portfolio companies or other investors in such portfolio companies.

To the extent set forth in the Fund's legal documents, investors may be required to return distributions previously received by them from the Fund in order to enable the Fund to make indemnification payments to a general partner, its members or other indemnified persons. More generally, investors may be required to return distributions previously received by them from the Fund to the extent required by applicable law. Such a return obligation may occur, for example, if the Fund makes a distribution at a time when it is technically insolvent or otherwise unable to satisfy the claims of creditors.

Investments in Other Venture Capital/Private Equity Funds. The Fund may invest in other venture capital or private equity funds. It is anticipated that the Fund will be a purely passive investor in such funds, with little or no right to vote upon or otherwise control the activities of such funds. In addition, the managers of such funds may be entitled to receive management fees, carried interest or other forms of compensation in respect of such funds. There will be no reduction in the management fees or carried interest charged by a general partner with respect to the portion of the Fund's capital

that is invested in such funds, which means that investors may pay two management fees on certain of those assets.

In certain cases, the Fund, a general partner or affiliates of a general partner may participate in the control or operations of a fund into which the Fund invests. In any such case, such participation may trigger restrictions or other burdens upon the Fund's own investment activities due to applicable law, confidentiality obligations or other reasons.

Regulatory Concerns. The Fund will be subject to a variety of securities laws and other types of governmental regulation in the United States and other jurisdictions that may limit the scope of its operations or impose material compliance costs and other burdens. Such laws and regulations are subject to change at any time.

While FEP believes that the Fund will not be subject to the registration requirements of the United States Investment Company Act of 1940, as amended (the "Investment Company Act"), there can be no assurance that this belief is, or will continue to be, correct. If the Fund were subject to such registration requirements, the Fund's performance could be materially adversely affected.

The general partners are not currently registered as an investment adviser, or included within the registration of an affiliated investment adviser, under the United States Investment Advisers Act of 1940 (the "Advisers Act"), in reliance upon the exemption from registration available to managers that advise private funds with assets under management of less than \$150,000,000, as set forth in Section 203(m) of the Advisers Act or another exemption available under Section 203 of the Advisers Act. In consequence, a general partner generally is not subject to certain restrictions, disclosure requirements and other obligations set forth in the Advisers Act that are applicable to registered investment advisers, although a general partner may become subject to such restrictions, requirements and obligations in the future. A general partner anticipates that it similarly may be exempt from corresponding restrictions, requirements and obligations arising under other applicable laws.

A general partner is not registered, and believes that it is not otherwise regulated, as a commodity pool operator under rules issued by the United States Commodity Futures Trading Commission (the "CFT"). Accordingly, a general partner believes that it generally is not subject to certain restrictions, disclosure requirements and other obligations applicable to registered or unregistered commodity pool operators under CFTC rules, although may become subject to such restrictions, requirements and obligations in the future.

Under the Fund's legal documents, a general partner will be authorized to manage and conduct the affairs of the Fund in a manner that (i) avoids classification of the Fund as a commodity pool and/or (ii) qualifies a general partner for exemption from registration as a commodity pool operator, in each case under CFTC rules. Should a general partner elect to manage and conduct the affairs of the Fund in such manner, the Fund's investment and other activities may be constrained. For example, a general partner may limit the Fund's use of hedging transactions such as currency or interest rate swaps and thereby expose the Fund to greater risks with regard to changes in currency exchange or interest rates than if the Fund took a more flexible approach to hedging.

In general, a general partner will seek to minimize the degree of governmental regulation and oversight to which a general partner and the Fund are subject. While it is anticipated that this

approach will reduce compliance and other costs, this approach will also eliminate a variety of investor protections (including certain protections arising under the Securities Act, the United States Securities Exchange Act of 1934, the Investment Company Act, and the Advisers Act) that would be available if a general partner and the Fund were subject to greater governmental regulation and oversight. In particular, prospective investors are cautioned against assuming the applicability of investor protections generally associated with public offerings of securities.

To the maximum extent permitted by applicable law, a general partner and the Fund (together with their respective related persons) hereby disclaim any duties, obligations, or status as an advisor, finder, agent, broker or dealer on behalf or in respect of any person in connection with such person's actual or proposed investment in the Fund.

Compliance with Rule 506 "Bad Actor" Requirements. The Fund is expected to rely on Rule 506 under the Securities Act for an exemption from registration of interests in the Fund pursuant to Section 5 of the Securities Act. Compliance with Rule 506 turns upon, among other things, whether any investor holding 20 percent or more of the Fund's outstanding voting equity securities (a "Rule 506(d) Related Party") is a "bad actor" within the meaning of Rule 506(d). For this purpose, an investor may be deemed a "bad actor" if the investor or its applicable related persons has been subject to certain criminal convictions, SEC disciplinary orders, court injunctions or similar adverse events. To help ensure compliance with Rule 506, the Fund's legal documents will cap the voting rights of any investor (that otherwise would be a Rule 506(d) Related Party) as necessary to prevent such investor from being a Rule 506(d) Related Party. Such reduction will apply until the earlier of: (x) a certification by such investor reasonably acceptable to a general partner that such investor (including its applicable related persons) is not a "bad actor" within the meaning of Rule 506(d); or (y) a general partner's reasonable determination that such voting rights are no longer relevant under Rule 506 to any prior, ongoing or anticipated offering of interests in the Fund.

Limited Access to Information. The rights of investors to information regarding the Fund and its portfolio companies will be specified, and strictly limited, in the Fund's legal documents. It is anticipated that a general partner will obtain certain types of material information that will not be disclosed to investors. For example, a general partner may obtain information regarding portfolio companies (e.g., via members of a general partner serving as advisors to, or officers/directors of, portfolio companies) that is material to determining the value of securities issued by such portfolio companies. Such information may be withheld from investors in order to comply with duties to such portfolio companies or otherwise to protect the interests of such portfolio companies or the Fund. Decisions by a general partner to withhold information may have adverse consequences for investors in a variety of circumstances. For example: (i) an investor that seeks to sell its interest in the Fund may have difficulty in determining an appropriate price for such interest; (ii) decisions by a general partner to withhold information may make it difficult for investors to subject a general partner to rigorous oversight; and (iii) each communication from a general partner to one or more investors must be interpreted in light of the realistic possibility that a general partner is in possession of undisclosed information relating to the Fund or its portfolio companies that could be material to a comprehensive assessment of such communication. Overall, prospective investors should not expect the Fund to be operated with the same degree of "transparency" as a publicly traded corporation.

Taxation. Risks associated with United States Federal tax matters are discussed under the heading Certain United States Tax Considerations, which prospective investors should read carefully. Prospective investors are urged to consult their own tax advisors with respect to their own tax

situations and the effects of an investment in the Fund.

Prospective investors should assume that host country tax laws will have a significant impact upon the operations and financial performance of the Fund and may even impose direct obligations (such as return filing and tax payment obligations) upon investors.

**Proposals to Change United States Tax Treatment of Carried Interest.** As of the date of this Memorandum, legislation has been proposed that, if enacted, may increase the United States Federal income tax liability of members of a general partner in respect of a general partner's "carried interest" in the Fund. It is not clear whether such legislation, or any other legislation of similar effect, will be enacted. Under the Fund's legal documents, the investors will agree to act in good faith to amend the legal documents in such a manner as to minimize the adverse tax consequences of any such legislation upon a general partner and its members, without imposing material adverse consequences upon the investors. Such efforts, as well as any other steps taken to address changes to the taxation of carried interest, may be distracting to the members of a general partner and may require significant time and attention from investors. More generally, any adverse changes to the tax treatment of carried interest may make it more difficult for a general partner to attract or retain the qualified personnel necessary for effective management of the Fund.

**The Plan Assets Regulation.** The United States Department of Labor has issued a regulation, 29 CFR Section 2510.3-101 (as modified by Section 3(42) of ERISA, the "Plan Assets Regulation"), describing what constitutes the assets of a "Plan" with respect to the Plan's investment in an entity for purposes of certain provisions of ERISA, including the fiduciary responsibility provisions of Title I of ERISA, and Section 4975 of the Code. Under the Plan Assets Regulation, if a Plan invests in an "equity interest" of an entity (which is defined as an interest in an entity other than an instrument that is treated as indebtedness under applicable local law and which has no substantial equity features) that is neither a "publicly offered security" nor a security issued by an investment company registered under the Investment Company Act, the Plan's assets include both the equity interest and an undivided interest in each of the entity's underlying assets, unless it is established that the entity is an "operating company" or that "benefit plan investor" hold less than 25% of the equity interests in the entity. Interests in the Fund would constitute an "equity interest" for purposes of the Plan Assets Regulation, and such interests will not constitute "publicly offered securities" for purposes of the Plan Assets Regulation. In addition, the Fund will not be registered under the Investment Company Act.

**The 25% Limit.** Under the Plan Assets Regulation, and assuming no other exemption applies, an entity's assets would be deemed to include "plan asset" subject to ERISA on any date if, immediately after the most recent acquisition of any equity interest in the entity, 25% or more of the value of any class of equity interests in the entity is held by "benefit plan investor" (the "25% Limit"). For purposes of this determination, the value of equity interests held by a person (other than a benefit plan investor) that has discretionary authority or control with respect to the assets of the entity or that provides investment advice for a fee with respect to such assets (or any affiliate of such a person) is disregarded. The term "benefit plan investor" is defined in the Plan Assets Regulation as (a) any employee benefit plan (as defined in Section 3(3) of ERISA) that is subject to the provisions of Title I of ERISA, (b) any plan that is subject to Section 4975 of the Code and, (c) any entity whose underlying assets include plan assets by reason of a plan's investment in the entity (to the extent of such Plan's investment in the entity). Thus, while the assets of the Fund would not be considered to be "plan assets" for purposes of ERISA so long as the 25% Limit is not exceeded, no

assurance can be given that the 25% Limit will not be exceeded. The Fund has not yet determined whether to rely on this aspect of the Plan Assets Regulation.

Operating Companies. Under the Plan Assets Regulation, an entity is “an “operating company” if it is primarily engaged, directly or through a majority-owned subsidiary or subsidiaries, in the production or sale of a product or service other than the investment of capital. In addition, the Plan Assets Regulation provides that the term operating company includes an entity qualifying as a venture capital operating company (“VCOC”). An entity will qualify as a VCOC if (i) on its initial valuation date and on at least one day during each annual valuation period, at least 50% of the entity’s assets, valued at cost, consist of “venture capital investments” and (ii) the entity, in the ordinary course of business, actually exercises management rights with respect to one or more of its venture capital investments. The Plan Assets Regulation defines the term “venture capital investments” as investments in an operating company (other than a VCOC) with respect to which the investor obtains management rights. “the “initial valuation” date” is the date on which an entity first makes an investment that is not a short-term investment of funds pending long-term commitment. An entity’s “annual valuation period” is a pre-established period not exceeding 90 days in duration, which begins no later than the anniversary of the entity’s initial valuation date. If the 25% Limit is exceeded, a general partner intends to use reasonable best efforts to operate the Fund in a manner that will enable the Fund to qualify as a VCOC or to meet such other exception as may be available to prevent the assets of the Fund from being treated as assets of any investing Plan for purposes of the Plan Assets Regulation. Accordingly, a general partner believes, on the basis of the Plan Assets Regulation, that the underlying assets of the Fund should not constitute “plan assets” for purposes of ERISA. However, no assurance can be given that this will be the case. If the Fund’s assets are deemed to constitute “plan assets” under ERISA, certain of the transactions in which the Fund might normally engage could constitute a non-exempt “prohibited transaction” under ERISA or Section 4975 of the Code. In such circumstances, the General Partner, in its sole discretion, may void or undo any such prohibited transaction, and may require each investor that is a “benefit plan investor” to withdraw from the Fund upon terms set forth in the Fund’s legal documents. In addition, if the Fund’s assets are deemed to be “plan assets” a general partner may be considered to be a fiduciary under ERISA. A fiduciary of an ERISA plan or other plan that proposes to cause such entity to purchase an Interest should consult with its counsel regarding the applicability of the fiduciary responsibility and prohibited transaction provisions of ERISA and Section 4975 of the Code to such an investment, and to confirm that such investment will not constitute or result in a non-exempt prohibited transaction or any other violation of ERISA.

Failure of Counterparties to Perform Obligations. In its ordinary course of business, the Adviser relies on various counterparties, which include, but is not limited to, brokers, dealers, banks, custodians, and administrators (“Counterparties”). These Counterparties, with which the Adviser does business and on behalf of a Fund, may, from time to time, default on their obligations with or without notice. Such defaults include, but are not limited to, a Counterparty’s bankruptcy, insolvency, or other failure. A Counterparty’s default on their obligations may impact the Adviser’s or the Fund’s ability to conduct its business in the ordinary course. There is a risk of loss of assets on deposit at the Counterparty. Although government agencies or other organizations provide insurance coverage to depositors in the event of a Counterparty failure, coverage is limited to a specified amount and subject to rules and regulations. Prior events where a government agency or other organization stepped in to make depositors whole over their excess deposits at select Counterparties, which may or may not have a current or prior relationship with the Adviser or the Fund, should not be construed as a guarantee that such action will be taken in the future. There is no guarantee that



any excess deposits are recoverable. In the event of a Counterparty's default, the Adviser will work diligently to access its capital and take actions it deems appropriate while acting in the best interest of the Fund. However, the Adviser's access to capital is subject to a variety of external factors that are outside of the Adviser's control, including the timing of default, a government agency's or other organization's actions, including the timing of the Counterparty's closure, ability to liquidate the Counterparty's assets, or to effect the Counterparty's sale or dissolution, unforeseeable economic factors or market conditions, and the Counterparty's technology infrastructure operating as intended to facilitate access. Furthermore, the Adviser's ability to access capital may have an impact on the Adviser's and the Fund's ability to conduct operations in the normal course including, but not limited to paying expenses, funding investment opportunities resulting in delayed or missed opportunities, and calling capital from or making distributions to limited partners. Deposits concentrated at one or a limited number of Counterparties may amplify these risks.

## **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 personnel.

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

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

FEP 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.

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.

In connection with sponsoring any limited partnership, the Adviser will also sponsor an affiliated general partner for such limited partnerships, which will receive certain compensation as described in Item 5 above. Other than these affiliated general partner entities and, in certain circumstances, serving directly as the Adviser of limited partnerships sponsored by the Adviser, the Adviser has no relationships or arrangements with any related person listed in the instructions to Item 10.C. that are material to its advisory business or to its Funds.

FEP is affiliated with other investment advisers as well as a general partners to the FEP Funds:

ACM Opportunities Management LLC  
CIP II Administrative LLC  
DataTribe Opportunities Management, LLC  
DataTribe Foundry, LLC  
Founders Equity Partners Tactical Opportunities Management, LLC  
Founders Equity Partners Tactical Opportunities Management, LLC – Series Dragos II  
Founders Equity Management LLC  
Founders Equity Partners Tactical Opportunities Management LLC – Series Dragos  
Mediatech Administrative V LLC

FEP does not recommend or select other investment advisers for the Funds.

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

Pursuant to Rule 204A-1 of the Investment Advisers Act of 1940, as amended (“Advisers Act”), FEP has adopted a written Code of Ethics (the “Code”) predicated on the principal that Adviser owes a fiduciary duty to the Funds and its Investors. The Code is designed to address and avoid potential conflicts of interest and is applicable to all officers, directors, members, partners, or employees of FEP, as well as their immediate family members (collectively the “Covered Persons”). Adviser requires its Covered Persons to act in the Funds’ best interests, abide by all applicable regulations and avoid any action that is, or could even appear to be, legally or ethically improper.

FEP’s Code prohibits Covered Persons from trading in certain securities in which the Adviser may be considering an investment. The Code also requires Covered Persons to: 1) pre-clear certain personal securities transactions, 2) report personal securities transactions on at least a quarterly basis, and 3) provide FEP with a detailed summary of certain holdings (both initially upon commencement of employment and annually thereafter) over which such Covered Persons have a direct or indirect beneficial interest.

A copy of FEP’s Code shall be provided to any investor or prospective investor upon request.

FEP, its Principals, and certain employees will generally have a material direct or indirect investment in the Funds. Therefore, FEP may be considered to participate, indirectly, in transactions effected for the Funds. Investments made by FEP, its officers and employees, and other related parties are generally made on the same terms as investors in the Funds. However, fees and investment minimums may be waived or reduced for FEP or related parties in the Adviser’s sole discretion. FEP does not believe this arrangement presents any material conflicts of interest since its interest are aligned with the interest of Investors.

## **Item 12. Brokerage Practices**

FEP invests solely via secondary transactions or other equity transactions in privately-held technology companies. Therefore, FEP does not conduct regular trading of public market securities or engage in standard brokerage practices. In certain situations, a general partner of specific funds may elect to distribute securities in-kind to limited partners unless the limited partners request a cash distribution. In those cases and at other times where FEP acquires public securities and determines to sell those securities, it will be done via a negotiated arrangement with a broker and taking into account the Adviser's obligations to seek the best execution of the transaction.

## **Item 13. Review of Accounts**

Investors in the Funds will receive: (i) quarterly reports briefly summarizing the business activities and financial status of the Fund; (ii) annual audited financial statements; and (iii) information reasonably necessary for the preparation of Federal income tax returns. In addition, FEP may agree to provide more frequent or more detailed reporting to certain investors as provided for in the relevant Fund Offering Documents.

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

FEP does not pay or receive any compensation for the referral of clients or investors to the FEP Funds . The Adviser does not receive any additional compensation outside of the management fee and performance-based fee outlined herein. Certain founders of the Adviser may have outside business interests or earn other compensation from time-to-time, and which is disclosed on the Form ADV Part 2B for each individual.

## **Item 15. Custody**

All Client assets are held in custody by unaffiliated, qualified, third-party broker/dealers or banks in a manner that it believes complies with current SEC standards and guidance. The managers and general partners of the Funds are related parties to FEP and therefore the Adviser is deemed to have custody over client assets in accordance with Rule 206(4)-2 under the Investment Advisers Act of 1940.

To comply with Rule 206(4)-2 and to provide meaningful protection to investors, each Fund is subject to an annual financial statement audit by an independent public account registered with, and subject to regular inspection by, the Public Firm Accounting Oversight Board. The audited financial statements are prepared in accordance with U.S. generally accepted accounting principles, and are distributed to each investor within 120 days of the Funds' fiscal year end.



## **Item 16. Investment Discretion**

FEP manages Client accounts on a discretionary basis, subject to the objectives and restrictions contained in the Offering Documents of the Funds. In accordance with the Offering Documents, the Adviser has the authority to determine the securities to be bought and sold without obtaining investor consent to specific transactions.

FEP does not provide any investment advice to investors directly and investors are not permitted to place any restrictions or modifications on the investment activities of the Funds.

## **Item 17. Voting Client Securities**

The Advisers Act requires investment advisers that have proxy voting authority to: (i) adopt policies and procedures for voting proxies in the best interest of the client; (ii) describe the procedures to Funds; and (iii) inform Funds how they may obtain information about how the adviser voted their proxies.

As a result of the investment strategy employed by Funds, FEP does not anticipate receiving many proxy ballots. As a result, FEP will generally vote proxies with management, or in a manner that FEP believes is in the best interests of the applicable Client(s) and may take into consideration, among other things, whether the costs associated with voting the proxy outweigh the benefits.

Furthermore, as a fiduciary, FEP always seeks to act in the Funds' best interests and with good faith, loyalty, and due care. If "Class Action" documents are received by FEP on behalf of its Funds, FEP will confirm that the Funds either participate in, or opt out of, any class action settlements received. FEP will not serve as a lead plaintiff in any class action.

## **Item 18. Financial Information**

FEP has never filed for bankruptcy and is not aware of any financial condition that is expected to affect its ability to manage Client accounts or impair its ability to meet contractual commitments to its Clients.

FEP does not require nor solicit prepayment of more than \$1,200 in fees, six months or more in advance.