

**Item 1. Cover Page**

**BROCHURE OF  
Atherton Lane Advisers, LLC®**

**3000 Sand Hill Road  
Building 1, Suite 170  
Menlo Park, CA 94025-7162  
(650) 233-1200**

**[www.athertonlane.com](http://www.athertonlane.com)**

**October 31, 2013**

This brochure provides information about the qualifications and business practices of Atherton Lane Advisers, LLC. If you have any questions about the contents of this brochure, please contact us at (650) 233-1200 and/or [www.athertonlane.com](http://www.athertonlane.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 Atherton Lane Advisers, LLC also is available on the SEC's website at **[www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov)**.

## **Item 2. Material Changes**

Since the last annual updating amendment to Atherton Lane's Brochure, Atherton Lane became the general partner of Deep Blue Capital Management, L.P., a Delaware limited partnership ("Deep Blue"), the general partner of investment limited partnerships (the "Funds") that began investing on October 1, 2013. The managers of Atherton Lane, Perry V. Olson, Janet K. Littlefield and Gary R. Patterson, are also control persons of Deep Blue. Atherton Lane's clients may invest in the Funds. Atherton Lane and Deep Blue share office space, and certain of Atherton Lane's employees provide services to Deep Blue. As Deep Blue's general partner, Atherton Lane receives a share of the compensation that the Funds pay Deep Blue, which includes performance-based compensation. The conflicts of interest raised by this arrangement are discussed in Items 6, 10, 11 and 12.

**Item 3. Table of Contents**

	<b>Page</b>
<b>Item 1. Cover Page</b> .....	1
<b>Item 2. Material Changes</b> .....	2
<b>Item 3. Table of Contents</b> .....	3
<b>Item 4. Advisory Business</b> .....	4
<b>Item 5. Fees and Compensation</b> .....	6
<b>Item 6. Performance-Based Fees and Side-By-Side Management</b> .....	8
<b>Item 7. Types of Clients</b> .....	8
<b>Item 8. Methods of Analysis, Investment Strategies and Risk of Loss</b> .....	8
<b>Item 9. Disciplinary Information</b> .....	17
<b>Item 10. Other Financial Industry Activities and Affiliations</b> .....	17
<b>Item 11. Code of Ethics, Participation or Interest in Client Transactions and Personal Trading</b> .....	18
<b>Item 12. Brokerage Practices</b> .....	19
<b>Item 13. Review of Accounts</b> .....	23
<b>Item 14. Client Referrals and Other Compensation</b> .....	24
<b>Item 15. Custody</b> .....	24
<b>Item 16. Investment Discretion</b> .....	24
<b>Item 17. Voting Client Securities</b> .....	25
<b>Item 18. Financial Information</b> .....	26
<b>Privacy Policy</b> .....	26

#### **Item 4. Advisory Business**

Atherton Lane Advisers, LLC® (“Atherton Lane”), founded in 2005, provides wealth management and investment counseling services to clients. We advise our clients in all areas of life’s financial decisions. We listen to our clients and we seek and have long-term relationships with them. Our principal owners are Perry V. Olson, Janet K. Littlefield and Gary R. Patterson.

We offer comprehensive advisory services to our clients. The services include portfolio management, the effect of financial decisions on a client’s overall tax situation, estate planning, financial decision analysis and charitable giving programs. We do not provide tax or legal advice.

We tailor our services to the individual needs of our clients. We work with each client to define the client’s objectives, time horizon and risk tolerance. Before providing investment counseling services, we conduct a thorough review of the client’s financial and personal circumstances. The review typically analyzes the client’s:

- balance sheet;
- cash flow;
- income tax and estate planning status;
- insurance;
- asset allocation; and
- important financial decisions.

**4.1 Portfolio Management.** We construct for clients customized tax-efficient portfolios that are broadly diversified across asset categories (such as cash, bonds, stocks and real estate) and within asset categories (such as domestic growth stocks and foreign stocks).

Client portfolios primarily comprise individual stock (equity securities) and bond (fixed-income) positions. Equity securities include exchange-listed securities, over-the-counter securities, and foreign issues. When we target foreign equity markets, we may buy American Depositary Receipts (“ADRs”) and exchange-traded funds (“ETFs”). ADRs and ETFs are described in Item 8 below.

Client bond positions may include corporate debt securities, United States government securities and municipal securities.

We also offer advice on, and may purchase for client portfolios:

- commercial paper;
- certificates of deposit;
- domestic and foreign commercial bank accounts;
- non-dollar-denominated assets held in foreign custodial accounts;

- fixed income funds and limited partnerships;
- investment company securities such as mutual fund shares;
- variable annuities;
- option contracts on securities: option writing, including covered options
- warrants;
- interests in partnerships, limited liability companies (LLCs) and funds investing in real estate;
- private investment funds, including Deep Blue;
- private equity funds;
- venture capital investments;
- precious metals such as gold; and
- any type of investment transaction that we may deem appropriate for a client in accordance with each client's investment management agreement.

A client may impose investment restrictions on Atherton Lane by identifying specific securities or sectors (for example tobacco stocks) not to be bought or sold for the client.

**4.2 Income Tax Planning.** We consider the effect of financial decisions on a client's overall tax situation. For example, when managing taxable client portfolios, we consider income tax costs. We try to realize net long-term capital gains in client portfolios, resulting in higher after-tax returns. We do not, however, provide tax advice. We work with clients and their accountants to:

- prepare quarterly income tax projections;
- build annual income tax models;
- review draft tax returns; and
- design multi-year tax planning models.

**4.3 Estate Planning.** We have substantial experience managing assets for families, trusts and charities. We work closely with clients and their attorneys on estate planning and estate tax matters. We typically review from a financial perspective client estate planning documents, such as wills, trusts and durable powers of attorney. We advise clients on the practical significance of proposed estate plans, and highlight issues that might arise in future years. We do not, however, provide legal advice.

**4.4 Financial Decision Analysis.** We define and analyze clients' important financial decisions, such as:

- How much money do I need to retire comfortably?
- How much money should we set aside for the education of our children?
- What will the value of my portfolio be in ten years?

- If inflation rises, will I remain financially independent?

To address these issues, we have designed and use a proprietary software modeling tool, the Atherton Analyzer. Using financial information provided by the client, such as current income, living expenses and retirement savings, the Atherton Analyzer summarizes data and performs the calculations necessary to offer perspective on these issues.

**4.5 Charitable Giving Programs.** We work closely with clients and their attorneys and accountants, and other resources in the community, to explore and define charitable giving programs.

#### **4.6 Deep Blue Capital Management, L.P.**

Atherton Lane is also the general partner of Deep Blue, the general partner of the Funds, which began investing on October 1, 2013. Atherton Lane's clients may invest in the Funds. The managers of Atherton Lane are also control persons of Deep Blue. Atherton Lane and Deep Blue share office space, and certain of Atherton Lane's employees provide services to Deep Blue.

**4.7 Assets Under Management ("AUM").** As of February 28, 2013, Atherton Lane managed client assets as follows:

Discretionary: \$2,120,222,579

Non-discretionary: \$148,641,043

"Discretionary" is defined in Item 16.1 of this Brochure.

"Non-discretionary" is defined in Item 16.2 of this Brochure.

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

**5.1 Asset-Based Fees.** Almost all of Atherton Lane's revenue is generated by asset-based fees ("management fees"). We calculate management fees based on the aggregate market value of all assets that we manage for a single family. The fee schedule below shows the annual fee percentages:

On the first \$1 Million:	1.25% of assets under management
On the next \$9 Million:	.75% of assets under management
Over \$10 Million:	.50% of assets under management
We may occasionally negotiate management fees that differ from the fee schedule.	

Management fees are payable quarterly in advance. The fees are generally charged to a client within the first month of the calendar quarter and are based on the estimated market value of all of the client's assets that we manage at the end of the prior quarter. For a quarter in which a client adds assets to, or withdraws all of the assets from, our management, the fee will be prorated for that quarter for the amount added or withdrawn.

We typically bill the client for management fees by electronically submitting an invoice to the custodian of the client's brokerage account. At the same time we notify the client that we have instructed the custodian to deduct the management fees from the client's account. We bill a few clients directly for management fees.

Assets under management in a client's account include all client assets over which Atherton Lane has "investment discretion" as described in Item 16 below. Assets under management may include "non-discretionary assets", but do not include "excluded assets", both of which are described in Item 16 below. Atherton Lane does not charge management fees on excluded assets or its clients' assets invested in Funds managed by Deep Blue.

Clients may terminate Atherton Lane's services on 30 days' prior written notice. Any unearned management fees paid in advance will be refunded.

**5.2 Retainer Fee.** Some clients pay Atherton Lane a fixed annual retainer fee for its services. The size of the retainer fee depends on a number of factors and each particular situation. These arrangements are infrequent.

**5.3 Other Fees and Expenses.** In addition to Atherton Lane's fees, other typical fees and expenses that clients may pay to others not affiliated with Atherton Lane include:

- custodial fees charged by the institution that holds securities in safekeeping for a client;
- management fees for private funds, mutual funds (including money market funds) and ETFs charged by their investment advisers;
- mutual fund expenses such as the costs associated with purchases, exchanges and redemptions; and
- brokerage and other transaction costs, including brokerage commissions and interest on margin borrowing, as described in Item 12 below.

Atherton Lane believes that its fees are competitive with fees charged by other investment advisers for comparable services. Comparable services may be available, however, from other sources for lower fees.

The disclosure in this Item 5, together with the disclosure in Item 12, allow a plan that is subject to the Employee Retirement Income Security Act of 1974 to use the "alternative reporting option" to report Atherton Lane's compensation as "eligible indirect compensation" on the Schedule C of the plan's Form 5500 Annual Return/Report of Employee Benefit Plan.

**5.4 Vista Wealth Management LLC.** Atherton Lane has a few clients who are also clients of Vista Wealth Management LLC ("Vista"), an SEC-registered investment adviser not affiliated with Atherton Lane. Atherton Lane has a written agreement with Vista to serve as a sub-adviser to these Vista clients. Vista charges each client an annual advisory fee ranging from 0.80% to 1.25% of assets under management. For our

services, Atherton Lane receives a “sub-adviser fee” of up to two-thirds of the fees that the clients pay to Vista.

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

Atherton Lane does not charge or accept fees on profits or gains in client accounts. Deep Blue charges the Funds performance-based compensation, however. As Deep Blue’s general partner, Atherton Lane receives part of such compensation. Atherton Lane may have an incentive to cause clients to invest in a Fund instead of an individually managed account at Atherton Lane because Atherton Lane’s share of Deep Blue’s performance compensation might be greater than the management fees Atherton Lane earns from such an account, and the reduced expenses and administrative burdens of having Deep Blue manage a Fund compared to Atherton Lane managing an individually managed account. Atherton Lane’s share of Deep Blue’s performance compensation also receives more favorable tax treatment than the fees from an individually managed account. Atherton Lane addresses these conflicts of interest by disclosing them to its clients.

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

**7.1 Clients.** Atherton Lane provides investment advisory services to individuals, high net worth individuals, family entities, pension and profit sharing plans, trusts, estates, charitable organizations, academic endowments, corporations and other business entities.

**7.2 Account Size.** Atherton Lane believes that the long-term objectives of our clients are more important than their initial assets under management. We manage in excess of \$3 million for the typical client family. It is the individual situation of each prospective client, however, that determines whether we are a good fit for each other.

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

**8.1 Investment Strategies.** We believe in active portfolio management. We do not believe that the markets are “efficient”. We do not employ a “passive” investment strategy. Our primary investment focus is on asset allocation across a range of asset classes such as cash, bonds, stocks, real estate and precious metals such as gold. We focus on a global investment strategy. Flexibility is essential to our strategy. We look to the financial markets to present opportunities. We do not engage in frequent trading strategies.

Our investment strategies include:

- long-term purchases (securities held for at least a year);
- short-term purchases (securities sold within a year);
- margin transactions (occasionally);
- option writing, including covered options (occasionally);
- trading (securities sold within 30 days) (rarely); and
- short sales (very rarely).

**Strategic Asset Allocation.** We believe that dynamic strategic asset allocation leads to the best long-term risk-adjusted returns. A client's asset allocation is shifted as economic and market trends dictate. This proactive approach seeks to identify financial sectors that are undervalued and have solid growth and return prospects. We believe that this strategic approach lowers total portfolio price volatility.

We make disciplined purchase and sell decisions for clients that are aligned with economic and investment market cycles. Changes in client asset allocations are driven by market opportunities and not calendar rebalancing. Changes are typically made gradually over a period of months or years. All changes are made in the context of clients' long-term risk and return objectives.

**Total Return Approach.** We employ a total return approach to investing. This approach considers the return on an investment, including income from interest, dividends and cash flow, as well as appreciation or depreciation in the price of the security over a given period. We do not attempt simply to match the common comparative stock indices—we attempt to outperform those indices.

**Bonds.** Atherton Lane's fixed-income approach is designed to preserve capital while earning fair returns. We typically purchase for clients U.S. corporate bonds and foreign bonds. We also purchase some high-yield bonds. An allocation to foreign bonds seeks to provide fixed-income returns and reduce the effect of a declining dollar and rising inflation on client portfolio real returns.

U.S. corporate bonds are normally of short to intermediate duration and held to maturity. Our internal research assesses bond quality and liquidity. A foreign bond is issued by a foreign entity in a foreign currency. Foreign bond positions are typically unhedged, which means that they are subject to the risk that their currency rate will fluctuate versus the U.S. dollar. A high-yield bond typically pays a higher current interest rate and has a lower credit rating than investment-grade corporate bonds or treasury bonds.

**Stocks.** Equity securities, which generally generate more attractive long-term returns than fixed-income investments, are typically a significant element in our strategy. We build diversified portfolios focusing on industry sectors that offer attractive prospects. For instance, we may invest in the technology, industrial products, energy and financial services sectors. We endeavor, however, not to buy too many stocks for clients or to over-diversify client portfolios.

We are not exclusively a growth or value investor, and we might use both approaches. Growth investors look to buy emerging companies with high growth rates. Value investors look for distressed companies that are trading at below-average prices. We believe that our stock selections have the potential for substantial earnings growth over a two- to three-year time horizon. We typically invest in high-quality companies that we believe are leaders in their industry sectors. We do not favor momentum stocks, but rather we strive to purchase sound companies when their stocks are out of favor.

Using the methods of analysis described below, the Atherton Lane Investment Committee chooses equities for our buy list. Typically only buy-list equities are purchased for client portfolios. We determine upside sell targets for each equity on the list, and these targets

are continuously monitored. Our buy list typically comprises between forty and seventy-five individual stocks, ADRs and ETFs. An ADR represents an ownership interest in a foreign company that trades on U.S. stock exchanges. An ETF is a mutual fund traded on a stock exchange, much like a stock.

**Real Estate.** Atherton Lane's approach to real estate involves both public and private investing. Typically, we purchase real estate investment trusts (REITs) or private real estate offerings such as limited partnerships or limited liability companies that invest directly in or finance real estate. A REIT is a trust that buys commercial properties such as apartments, office buildings and shopping centers or mortgages on commercial properties. REITs are traded like stocks on major stock exchanges. Private real estate offerings typically involve the purchase of an office building, an apartment building, land under development, or a number of such properties.

**Precious Metals.** Atherton Lane's approach to investing in precious metals is intended to provide:

- a hedge against loss of purchasing power in currency;
- liquidity during periods of financial panic;
- a hedge against risks which may be faced by the global banking and financial systems; and
- a hedge against high rates of inflation.

Atherton Lane invests in precious metals by:

- purchasing shares in publicly-traded stocks of mining companies;
- purchasing ETFs, which hold directly precious metals; and
- direct investment in physical metals such as gold held in third-party custodial accounts.

**8.2 Methods of Analysis.** Atherton Lane's methods of analysis include Fundamental, Technical, Charting, and Cyclical.

**Fundamental analysis** is important to our investment process and strategy. Fundamental analysts attempt to study everything that can affect the value of a particular security, including:

- the overall economy and industry conditions; and
- company-specific factors such as the primary business, profitability, financial condition and management.

**Technical analysis** is also used in our investment process. Technical analysis focuses on price movements and trading volume, and attempts to identify trends that indicate future price movement.

**Charting** is also used for both our fundamental and technical analysis. Charting involves the visual representation of data to plot information such as earnings, growth, sales growth, stock price movements and trading volume. The data are represented by symbols, such as a bar, line or pie chart.

**Cyclical.** We also include in our analysis the study of historical cycles and patterns. These may relate to:

- interest rates;
- equity markets;
- rates of inflation;
- GDP growth;
- earnings growth;
- corporate margins;
- corporate liquidity; and
- political and demographic trends.

The investment strategies summarized above represent Atherton Lane's current intentions, are general in nature and are not necessarily exhaustive. Subject to particular clients' investment guidelines and restrictions, there are no limits on the types of securities in which Atherton Lane may take positions on behalf of its clients, the types of positions that it may take, the concentration of its investments or the amount of leverage that it may use. Atherton Lane may use any trading or investment techniques, whether or not contemplated by the expected investment strategies described above. In addition, there are limitations in describing any investment strategy due to its complexity, confidentiality and indefinite nature. Depending on conditions and trends in securities markets and the economy generally, Atherton Lane may pursue any objectives or use any techniques that it considers appropriate and in clients' interest.

**8.3 Sources of Information.** Atherton Lane uses several sources of information when conducting research and analysis, including:

- research information prepared by and obtained electronically from BCA Research, Bloomberg, Bridge Information systems, Fact Set Research Systems, Gartner Group, GaveKal Research, ISI International, Renaissance Macro Research, Reuters America, Strategas, Thompson Institutional, William O'Neill Direct Access, and other similar providers;
- financial newspapers and magazines;
- annual reports, prospectuses and filings with the SEC;
- company press releases;
- research prepared by others not affiliated with Atherton Lane;

- an extensive network of contacts in the venture capital and investment communities to gain perspective on our investment ideas; and
- timing services.

Using both fundamental and technical analysis and the sources of information described above, we develop most investment ideas internally through our Investment Committee. We strive to identify sustainable investment trends and determine how to benefit from the trends over a multi-year period. Current examples of such trends include the growth of Asian economies, the revaluation of global industrial companies and global consumer trends.

#### **8.4 Risk Factors**

Investing in securities involves risk of loss that clients should be prepared to bear. Below are some of the risks that investors should consider before investing in any account that Atherton Lane manages. Any or all of such risks could materially and adversely affect investment performance and the value of any account or any security held in an account, and could cause investors to lose substantial amounts of money. Below is only a brief summary of some of the risks that a client may encounter. Each potential client should discuss with Atherton Lane's representatives any questions that such person may have before opening an account.

- Client accounts may not achieve their investment objectives. A strategy may not be successful and clients may lose some or all of their investments.
- Investor sentiment on the market, an industry or an individual equity, fixed-income or other security is not predictable and can adversely affect an account's investments.
- An account may hold stocks that disappoint earnings expectations and decline, and may short stocks that beat earnings expectations and rise.
- Atherton Lane may not be able to obtain complete or accurate information about an investment and may misinterpret the information that it does receive. Atherton Lane also may receive material, non-public information about an issuer that prevents it from trading securities of that issuer for a client when the client could make a profit or avoid loss.
- Changes in economic conditions can adversely affect investment performance. In recent years, economic conditions in the U.S. and elsewhere have deteriorated significantly, resulting in volatile securities markets and large investment losses. Government actions responding to these conditions could lead to inflation and other negative consequences to investors.
- Atherton Lane may acquire for a client a large position in an issuer's securities, but neither Atherton Lane nor the client is likely to have any

control over the issuer's management. In addition, if Atherton Lane holds a large position in an issuer's securities, sales of those securities by Atherton Lane could depress the market for them.

- Some of an account's positions may be or become illiquid, in which case Atherton Lane may not be able to sell such positions.
- An account's investments may not be sufficiently diversified. Therefore, a loss in any one position, industry or sector in which a fund has invested may cause significant losses.
- Atherton Lane may take positions in securities of small, unseasoned companies that are less actively traded and more volatile than those of larger companies.
- Atherton Lane and its managers and employees generally are not responsible to any client for losses incurred in an account unless the conduct resulting in such loss breached Atherton Lane's fiduciary duty to the client.
- Federal, state and international governments may increase regulation of investment advisers which may increase the time and resources that Atherton Lane must devote to regulatory compliance, to the detriment of investment activities.
- Counterparties such as brokers, dealers, custodians and administrators with which Atherton Lane does business on behalf of clients may default on their obligations. For example, a client may lose its assets on deposit with a broker if the broker, its clearing broker or an exchange clearing house becomes bankrupt.
- All fixed-income investments are subject to credit and interest-rate risks. Credit risk is the risk that an issuer will default on its principal or interest payments. Interest-rate risk is the risk associated with market changes in the levels of interest rates. Rising interest rates depress bond prices.
- Atherton Lane invests in high-yield fixed-income securities. High-yield fixed-income securities are below investment grade or unrated. They face uncertainties and exposure to adverse business, financial or economic conditions, which could lead to the issuer's inability to make timely interest and principal payments. Such investments involve substantial risk and could result in substantial losses.
- A credit rating agency is a private company such as Moody's Investors Services, Fitch Ratings or Standard & Poor's that assigns credit ratings to certain fixed-income securities. Credit ratings are intended to indicate the risk that the security will pay its principal and interest on time and are based on factors such as:

- o the security's seniority in the capital structure of a particular issuer;
- o credit characteristics;
- o collateral composition, if any;
- o degree of diversification;
- o weighted average life of the collateral, if any; and
- o the legal structure of the issuer.

Credit ratings are subject to limitations. An issuer's credit rating is heavily weighted by historical data and does not necessarily reflect future conditions. There may be a lag between the time a credit rating is assigned and the time it is updated. In addition, there may be varying degrees of difference in credit risk of securities within each rating category. For example, securities rated BBB+, BBB or BBB- by Standard & Poor's and Fitch Ratings or Baal, Baa2 or Baa3 by Moody's Investor Services are considered investment grade, but have speculative characteristics. Sustained periods of deteriorating economic conditions or rising interest rates are more likely to weaken the issuer's capacity to pay interest and repay principal on securities with these ratings than in the case of higher-rated securities.

- Atherton Lane may cause clients to invest in securities of non-U.S. private and government issuers through ADRs or otherwise. The risks of these investments include:
  - o political risks;
  - o economic conditions of the country in which the issuer is located;
  - o limitations on foreign investment in any such country;
  - o currency exchange risks;
  - o withholding taxes; limited information about the issuer;
  - o limited liquidity; and
  - o limited regulatory oversight.
- Atherton Lane may invest client assets in real estate investment trusts ("REITs") that carry risks not present in investments in other securities, including lower trading volumes. To qualify as a real estate investment trust, a REIT must satisfy certain requirements. For example, a REIT is required to distribute most of its net income annually and may be adversely affected if its obligation to distribute net income exceeds its available cash. REITs also must be operated by a board of trustees that includes a majority of independent trustees. At least 75% of a REIT's gross income generally must be derived from specified types of real estate-related income.

If a client invests in a REIT that fails to qualify as such, the REIT is likely to be subject to substantial income tax that could cause it to liquidate investments, borrow funds under adverse conditions or fail.

- Any REIT or private real estate fund in which Atherton Lane invests clients' assets could suffer losses as a result of the following general risks relating to investing in real estate:
  - o Adverse changes in economic and market conditions, supply of, demand for, or development of similar or competing properties, changes in taxes or interest rates and the availability of mortgage funds, all of which may depress the prices of real estate and make sales difficult.
  - o Significant infrastructure development (such as streets, utilities and sewers) and subdivision, zoning, permitting and other entitlements. Entitlement and improvement costs could exceed expectations. If a fund that holds unimproved land or the holder of unimproved land financed by a fund is unable to obtain necessary entitlements or make improvements at a reasonable cost, the fund is likely to suffer losses
  - o Uninsurable events such as earthquakes, floods and wars.
  - o A real estate owner may be liable for environmental cleanup costs or damages caused by hazardous materials or toxic substances even if such materials or substances were on the property before the current owner acquired it or were released by owners of nearby properties. A fund in which Atherton Lane clients invest might be required to pay such cleanup costs and might not be able to sell a property that has environmental problems.
  - o Delays in construction work and unsatisfactory performance by contractors, which could cause real estate improvements to cost more and take longer than expected.
  - o Competing for tenants and maintaining rental rates and occupancy levels in a highly competitive market may cause rental income to be insufficient to meet a property's operating expenses.
  - o Non-compliance with building codes may cause properties to be subject to remedial actions or other legal recourse by government agencies, fines or other monetary remedies.
  - o Liability to customers, tenants and guests.
  - o Inability to sell one or more properties at a favorable price or at all.
- Atherton Lane may make private fund, venture capital and private real estate investments on behalf of clients with the client's specific authorization. These investments involve a high degree of risk and could result in complete losses. The companies and properties represented by these investments may be operating at a loss or with substantial variations

in operating results from period to period. Their operators also may face intense competition from others with greater financial resources, more extensive development, production, marketing and service capabilities, and a larger number of qualified managerial and technical personnel.

- Atherton Lane determines the value of securities held in client accounts, including private fund, venture capital and private real estate interests, whether or not a public market exists for such instruments. If Atherton Lane's valuation is inaccurate, it might receive more compensation than that to which it is entitled and client portfolios might be worth less than expected.
- There is not and will not be an active market for private fund, venture capital and private real estate interests in which Atherton Lane clients invest. It may be impossible to sell or transfer any such interests, even in an emergency.
- Any fund (private, mutual fund or ETF) may not be able to generate cash necessary to satisfy investor withdrawals. Substantial withdrawals in a short period could force the fund to liquidate investments too rapidly, and may so reduce the size of a fund that it cannot generate returns or reduce losses.
- A private fund may limit or suspend withdrawals of a client's assets from the fund. In addition, such a fund may dissolve or expel any investor at any time, even if such actions adversely affect one or more investors.
- If a private fund becomes insolvent, investors may be required to return with interest any distributions and forfeit any undistributed profits.
- Atherton Lane clients may invest in a fund managed by an investment adviser that is not registered with the SEC or state authorities as an investment adviser or a broker-dealer, or with the Commodity Futures Trading Commission as a commodity pool operator. The equity interests in private funds in which Atherton Lane clients invest are not registered under the Securities Act of 1933, and such funds are not registered investment companies under the Investment Company Act of 1940. Such investment advisers and funds have informed Atherton Lane that none of these registrations is required because exemptions are available under applicable law. If a regulatory authority deems that any of these registrations is required, any such fund could be subject to expensive legal action and potential termination. In addition, investors in such funds do not have regulatory protections that they would have if these registrations were in place.
- A client may have taxable income from a fund or other investments without a cash distribution to pay the related taxes.
- The risks of investing in precious metals include:
  - o high price volatility similar to that experienced in other types of commodities;

- o currency charges; and
- o transactional spreads caused by inefficient market conditions.
- Atherton Lane may sell securities short, resulting in a theoretically unlimited risk of loss if the prices of the securities sold short increase.
- Atherton Lane may borrow on margin, which increases volatility and risk of loss.
- Atherton Lane may sell covered and uncovered options on securities. The sale of uncovered options could result in unlimited losses.

#### **Item 9. Disciplinary Information**

Atherton Lane has no material legal or disciplinary events to disclose.

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

As discussed above, Atherton Lane is Deep Blue's general partner, and many of Atherton Lane's clients may invest in the Funds. The managers of Atherton Lane, Perry V. Olson, Janet K. Littlefield and Gary R. Patterson, are also control persons of Deep Blue. Atherton Lane and Deep Blue share office space, and certain of Atherton Lane's employees provide services to Deep Blue. As the general partner of Deep Blue, Atherton Lane also receives a share of the compensation that the Funds pay Deep Blue. The conflicts of interest raised by this arrangement are discussed in this Item 10 and in Items 6, 11 and 12.

Atherton Lane and Deep Blue may invest in the same investment opportunities. They also have discretion to determine how to allocate those opportunities among Atherton Lane's clients, the Funds, themselves and their affiliates. Generally, investments made on behalf of the Funds are not appropriate for Atherton Lane clients who are not investors in the Funds and those clients do not participate in such investments. However, an investment that might be appropriate for Atherton Lane clients who are not investors in the Funds might be more profitable or otherwise benefit Atherton Lane and Deep Blue if those clients do not participate. This conflict of interest could influence Atherton Lane not to make such an investment for those clients even though participation might benefit them.

The Atherton Lane employees who provide services to Deep Blue will have conflicts of interest over the amount of time they spend on Atherton Lane's activities and the activities of Deep Blue and the Funds. If it is more profitable for Atherton Lane to spend time managing the Funds compared to managing Atherton Lane's client accounts, Atherton Lane has an incentive to allocate more time to the Funds.

Atherton Lane has addressed the conflicts of interest discussed in the preceding two paragraphs by implementing policies and procedures governing allocation of investment opportunities and regularly reviewing such policies and procedures.

Securities transactions for Deep Blue's clients are made through Atherton Lane's trading desk by Atherton Lane's employees. The conflicts of interest raised by this arrangement are discussed in Item 12.

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

Atherton Lane has adopted a Code of Ethics (the "Code") in compliance with Rule 204A-1 under the Investment Advisers Act of 1940. The Code establishes standards of conduct for its employees. The Code includes:

- general requirements that employees comply with their fiduciary obligations to clients and applicable securities laws; and
- specific requirements relating to, among other things, personal trading, insider trading, conflicts of interest and confidentiality of client information.

The Code generally requires employees:

- to obtain prior approval of their personal securities transactions from Atherton Lane's Compliance Officer;
- to report their personal securities transactions and holdings quarterly to the Compliance Officer; and
- to report any violations of the Code promptly to the Compliance Officer.

Each employee receives a copy of the Code and any amendments to it. Annually, each employee must certify that he or she complied with the Code during the prior year. Clients and prospective clients may obtain a copy of the Code by contacting Atherton Lane's Compliance Officer, William E. McDonnell, Jr., Esq.

Under the Code, Atherton Lane's employees, without the consent of the Compliance Officer, are prohibited from investing in any security on the Atherton Lane or Deep Blue buy list, that is, securities that Atherton Lane and Deep Blue are in the process of trading for clients or considering trading for clients, until two days after that security is removed from both buy lists. If the Compliance Officer permits an employee to trade any security on the same day as a client account, the client account must receive the best price in relation to the employee.

Atherton Lane's employees may invest in private funds that Atherton Lane recommends and purchases for clients, but employees and clients who purchase interests in the same fund must pay the same price for the interests. In addition, Atherton Lane allows employees to purchase interests in any private fund only after clients have been offered the opportunity to invest in the fund and interests in the fund remain available.

Atherton Lane solicits some of its clients to invest in the Funds. As the general partner of Deep Blue, Atherton Lane receives part of the compensation that the Funds pay Deep Blue, including performance-based compensation. Atherton Lane may have an incentive

to cause its clients to invest in a Fund instead of an individually managed account at Atherton Lane because its share of Deep Blue's performance compensation might be greater than the management fees it earns from such an account, and the reduced expenses and administrative burdens of having Deep Blue manage a Fund compared to Atherton Lane managing such an account. Atherton Lane's share of Deep Blue's performance compensation from a Fund receives more favorable tax treatment than the fees from an individually managed account. Atherton Lane addresses these conflicts of interest by disclosing them to clients.

Because Atherton Lane manages many client accounts, there may be conflicts of interest over its time devoted to managing any one account and allocating investment opportunities among all accounts that it manages. For example, Atherton Lane selects investments for each client based solely on investment considerations for that client. Different clients may have differing investment strategies and expected levels of trading.

Atherton Lane may buy or sell a security for one client but not for another, or may buy (or sell) a security for one client while simultaneously selling (or buying) the same security for another client. Atherton Lane may give advice to, and take action on behalf of, any of its clients that differs from the advice that it gives or the timing or nature of action that it takes on behalf of any other client.

Atherton Lane is not obligated to acquire for any account any security that Atherton Lane or its members, managers, officers or employees may acquire for its or their own accounts or for any other client, if in Atherton Lane's absolute discretion, it is not practical or desirable to acquire a position in such security for that account.

Atherton Lane has addressed the conflicts of interest involved in allocating investments among client accounts and between client accounts and employees by implementing policies and procedures governing such allocation and regularly reviewing securities held in client accounts to determine that they are appropriate and comply with each account's investment policies and restrictions, and implementing employee trading policies and procedures, and regularly reviewing all such policies and procedures.

## **Item 12. Brokerage Practices**

**12.1 Execution and Soft Dollars.** Atherton Lane has complete discretion in selecting the broker that it uses for client transactions and the commission rates that clients pay such brokers. In addition, Deep Blue directs the Funds' securities transactions through Atherton Lane's trading desk by Atherton Lane's trading staff. In selecting a broker for any transaction or series of transactions, Atherton Lane may consider a number of factors, including, for example:

- special execution capabilities;
- willingness to execute related or unrelated difficult transactions in the future; willingness to commit capital; knowledge of market participants;
- block trading and block positioning capabilities;
- efficiency of execution and error resolution;
- order of call;

- offering to Atherton Lane on-line access to computerized data regarding clients' accounts;
- computer trading systems;
- clearance, settlement and reputation;
- financial strength and stability; and
- quotation services.

Atherton Lane may also purchase from a broker or allow a broker to pay for the following (each a "soft-dollar" relationship):

- research reports, services and conferences, including third-party research fees;
- economic and market information; portfolio strategy advice; industry and company comments;
- technical data;
- periodical subscription fees;
- performance measurement data;
- on-line pricing;
- outsourced trading services;
- news wire and data processing charges;
- custody, recordkeeping and similar services;
- proxy voting services;
- expenses incurred in visiting companies and attending research conferences (such as travel, lodging and meals)
- administrative services and assistance (including middle and back office services, such as order management and trade reconciliation);
- offering and selling interests in the Funds and communicating with existing and potential limited partners (including travel, lodging and meals and accounting, bookkeeping services of the Funds' administrator or other third-party service providers and governmental and self regulatory agency compliance);
- accounting fees; and
- legal fees.

Atherton Lane's clients and the Funds may be deemed to be paying for research and other services with soft-dollar credits based on principal, as well as agency, securities transactions with brokers. Atherton Lane may direct a broker that executes transactions to share some of its commissions with a broker that provides soft-dollar benefits to Atherton Lane or Deep Blue.

Section 28(e) of the Securities Exchange Act of 1934 provides a "safe harbor" to investment advisers who use commission dollars of their advised accounts to obtain investment research and brokerage services that provide lawful and appropriate assistance to the adviser in performing investment decision-making responsibilities. Conduct outside of the safe harbor of section 28(e) is subject to the traditional standards of fiduciary duty under state and federal law. If Atherton Lane or Deep Blue uses commission dollars to pay for products or services that provide administrative or other

non-research assistance to itself or its affiliates, such payments may not be within the section 28(e) safe harbor.

Atherton Lane may pay to a broker commissions and mark-ups that exceed those that another broker might charge for effecting the same transaction because of the value of the brokerage, research, other services and soft-dollar relationships that such broker provides.

Atherton Lane generally considers the amount and nature of research, execution and other services provided by brokers as well as the extent to which accounts managed by Atherton Lane and the Funds rely on such services, and attempts to allocate a portion of the brokerage transactions of such accounts and the Funds based on that consideration. Atherton Lane and Deep Blue may, however, use the investment information and other services received from brokers in servicing all of their accounts (including accounts managed by Atherton Lane and the Funds), but may not use all such information and services for Atherton Lane's clients. Specifically, soft dollars generated by trades for Atherton Lane's clients may pay for services to the Funds and such clients. Atherton Lane believes, however, that allocating brokerage transactions in this manner helps it obtain research and execution capabilities and provides other benefits to its clients.

The relationships with brokerage firms that provide soft-dollar services to Atherton Lane, Deep Blue and their affiliates influence Atherton Lane's judgment in allocating brokerage transactions and create a conflict of interest in using the services of those brokers to execute brokerage transactions for Atherton Lane's clients and the Funds. Atherton Lane believes that these relationships benefit its clients and the Funds, but clients' trades executed through these firms or any other brokerage firm may or may not be at the best price otherwise available.

Atherton Lane addresses these conflicts of interest by annually evaluating the trade execution services it receives from the brokers that it uses to execute trades for clients. Such evaluation includes comparing those services to the services available from other brokers. Atherton Lane considers, among other things:

- alternative market makers and market centers;
- the quality of execution services;
- the value of continuing with various soft dollar services and adding brokers to, or removing them from, the list of approved brokers that Atherton Lane uses;
- increasing or decreasing targets for each broker; and
- the appropriate level of commission rates.

**12.2 Directed Brokerage.** Atherton Lane may place orders with brokerage firms as directed by a client ("directed brokerage"). Directed brokerage is typically arranged by an advisory client to compensate a broker through commissions for services other than execution that the broker provides directly to the client as negotiated between the client and the broker. The commission rates for directed brokerage may not necessarily be the lowest available from the broker.

When considering a directed brokerage arrangement, clients should consider the total cost of all of the services that the broker provides to the client. If a client directs Atherton Lane to use a specific broker, we have not negotiated the terms and conditions (including commission rates) of the services provided by that broker. Atherton Lane not responsible for obtaining for the client from any such broker the best prices or commission rates. The client may not obtain rates as low as it might obtain if we had discretion to select brokers other than those chosen by the client. The client may not participate in aggregated securities transactions as described below, and may trade after such aggregated transactions and receive less favorable execution.

**12.3 Aggregation of Trade Orders.** Atherton Lane may aggregate securities sale and purchase orders for client accounts with similar orders being made contemporaneously for other client accounts and the Funds. Such aggregation may occur, if in our reasonable judgment, such aggregation is reasonably likely to result in an overall economic benefit to the accounts. This judgment is based on an evaluation that the accounts are benefitted by relatively better purchase or sale prices, lower commission expenses, or beneficial timing of transactions, or a combination of these and other factors.

Such aggregated transactions may be at slightly different prices, due to the volume of securities purchased or sold. In such event, clients may be charged or credited, as the case may be, the average transaction price of all securities purchased or sold in such transactions. As a result, however, the price may be less favorable to a client than it would be if Atherton Lane were not executing similar transactions concurrently for other client accounts.

Atherton Lane may in some instances implement transactions for client accounts in securities that are not listed on a national securities exchange but are traded in the over-the-counter market. Where transactions are executed in the over-the-counter market, Atherton Lane may deal with the primary market-makers; but if we deem it appropriate, we may use the services of others.

**12.4 Atherton Lane's Relationship with Schwab.** Atherton Lane receives client referrals from Schwab through Atherton Lane's participation in the Schwab Advisor Network®. Atherton Lane pays Schwab fees on all accounts referred to it by Schwab that are held in custody at Schwab ("Participation Fees") and a non-Schwab custody fee on all accounts referred to it by Schwab that are held at, or transferred to, another custodian ("Non-Schwab Custody Fees"). Participation Fees with respect to a client are a percentage of the value of the assets in the client's account (and accounts of referred clients' family members living in the same household) held at Schwab and managed by Atherton Lane. Participation fees for each such account are paid for so long as such account remains in custody at Schwab and is managed by Atherton Lane. Participation Fees are paid by Atherton Lane and not by the client. Atherton Lane does not charge clients referred through Schwab fees or costs greater than those that it charges clients with similar portfolios who were not referred through Schwab.

The Non-Schwab Custody Fee is a one-time payment equal to a percentage of the client's assets placed with a custodian other than Schwab and is higher than the Participation Fees that Atherton Lane generally would pay with respect to that client in a single year.

The Participation and Non-Schwab Custody Fees are based on the amount of assets in accounts of Atherton Lane's clients who are referred by Schwab. Thus, Atherton Lane has an incentive to recommend that client accounts referred to it by Schwab and their household members maintain custody of their accounts at Schwab.

Atherton Lane's clients whose accounts are held in custody at Schwab also pay Schwab a fee for clearance and settlement of trades executed through broker-dealers other than Schwab. Schwab's fees for trades executed at other broker-dealers are in addition to the other broker-dealer's commissions and fees. Thus, Atherton Lane may have an incentive to cause those clients' trades to be executed through Schwab rather than another broker-dealer.

Atherton Lane addresses these conflicts of interest by annually evaluating the trade execution services that it receives from the brokers it uses to execute trades for clients.

**12.5 Trade Errors.** If Atherton Lane makes an error while placing a trade for a client's account, it corrects the error and bears the costs of correcting it. All errors on client trades placed through Schwab are placed in a special trade error account and Atherton Lane nets the profit or loss resulting from those errors in that error account. If trade errors result in a net loss, Atherton Lane pays for the loss. If there is a net gain, the gain is donated to charity. For all errors on trades placed through other brokers, if the error results in a loss, Atherton Lane pays the loss immediately. If there is a net gain, the gain is donated to charity. Atherton Lane does not use soft dollars to cover trade errors.

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

**13.1 Account Review.** Individual client accounts are reviewed on a continuous basis, and at least monthly, by Atherton Lane's Managing Directors and at least one portfolio manager. Accounts are also reviewed as necessary depending on general conditions in the financial markets, changes in Atherton Lane's strategies or changes in client circumstances.

Reviews verify that client portfolios are invested consistent with client objectives and guidelines, and that portfolios hold appropriate securities. If an account holds securities that are not on Atherton Lane's buy list, the Managing Director reviewing the account discusses those securities with the portfolio manager for the account. Quarterly, Managing Directors review and compare the performance of client accounts that have similar objectives and risk tolerances, but that are managed by different portfolio managers.

**13.2 Reports.** Atherton Lane provides written quarterly reports to all clients. These reports include:

- a summary of all transactions that occurred during the quarter, including deposits and withdrawals;
- a summary of all assets held in the account, including cost and current market value;
- a presentation of the account asset allocation; and

- a computation of the account's investment return for the quarter and since inception.

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

Atherton Lane engages solicitors who refer clients to it. For those referrals, we pay a portion of the advisory fees paid by the referred clients. This practice is disclosed in writing to the client and Atherton Lane complies with the other requirements of Rule 206(4)-3 under the Investment Advisers Act of 1940, to the extent required by applicable law.

#### **Item 15. Custody**

Atherton Lane does not hold cash or securities of its clients. As the general partner of the Funds, however, Deep Blue is deemed to have custody of the Fund's cash and securities and, therefore, is deemed to have custody of clients' assets invested in the Funds.

An institution (a qualified custodian) unrelated to Atherton Lane and Deep Blue holds cash and securities of Atherton Lane's clients and the Funds in safekeeping. The institution typically is the brokerage firm (for example, Schwab) where the client has opened a brokerage account.

Clients receive account statements from the qualified custodian at least quarterly. Clients should carefully review those statements. Clients will also receive quarterly account statements from Atherton Lane. We urge clients to compare the account statements they receive from the qualified custodian with the quarterly account statements they receive from us.

#### **Item 16. Investment Discretion**

**16.1 Investment Discretion.** Atherton Lane typically has investment discretion to manage securities accounts on behalf of its clients. This means that it has authority to determine, without obtaining specific client consent:

- the securities to be bought or sold;
- the amount of securities to be bought or sold;
- the broker or dealer to be used (except as otherwise described in Item 12 above); and
- the commission rates paid (as described in Item 12 above).

Clients may constrain Atherton Lane's investment discretion by identifying specific securities or securities sectors (for example, tobacco stocks) not to be bought or sold in the client's account.

Atherton Lane's written discretionary authority is in the Investment Management Agreement signed by the client at the time the client begins an advisory relationship with us.

**16.2 Non-discretionary Assets.** Some clients have “non-discretionary assets” in their accounts managed by Atherton Lane. As described in each such client’s Investment Management Agreement, our investment discretion is limited for these assets, and we must obtain the clients’ oral or written approval to take action on them. Typically, non-discretionary assets are included in the calculation of “assets under management” on which Atherton Lane’s asset-based management fee is charged, as described above in Item 5.

**16.3 Excluded Assets.** Some client accounts include “excluded assets” which may or may not be held by the custodian that holds all of the client’s discretionary and non-discretionary assets. As described in each such client’s Investment Management Agreement, Atherton Lane in most cases has no investment authority over these assets. Excluded assets are not included in the calculation of assets under management on which management fees are charged as described above in Item 5.

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

For client accounts over which Atherton Lane has the authority to vote proxies, votes are made based on a determination of the best interests of the accounts. In making that determination for any proxy proposal, we consider a number of factors, including:

- the economic effect the proposal would have on shareholder value;
- the threat that the proposal would pose to existing rights of shareholders;
- the dilution of existing shares that would result from the proposal;
- the effect the proposal would have on management or director accountability to shareholders; and
- if the proposal is a shareholder initiative, whether it wastes time and resources of the company or reflects the grievance of one individual.

Atherton Lane abstains from voting proxies when it believes that it is appropriate.

If a material conflict of interest over proxy voting arises between Atherton Lane and a client, we vote all proxies in accordance with the policy described above. If Atherton Lane determines that this policy does not adequately address the conflict of interest, it will notify the client of the conflict and request that the client consent to Atherton Lane’s intended response to the proxy solicitation. If the client consents to Atherton Lane’s intended response or fails to respond to the notice within a reasonable period of time specified in the notice, we will vote the proxy as described in the notice. If the client objects to Atherton Lane’s intended response, we will vote the proxy as directed by the client.

A client can obtain a copy of Atherton Lane’s proxy voting policy and a record of the votes it has cast on behalf of that client by contacting William E. McDonnell, Jr., Esq. at (650) 233-1200.

Atherton Lane does not have the authority to vote proxies for some assets, including non-discretionary assets and excluded assets described in Item 16 above.

**Item 18. Financial Information**

Not applicable.

**Privacy Policy**

Atherton Lane:

- collects non-public personal information about its clients from information received from clients on applications or other forms and information about clients' transactions with Atherton Lane, its affiliates or others;
- does not disclose any non-public personal information about its clients or former clients to anyone, except as permitted by law;
- restricts access to non-public personal information about its clients to its employees who need to know that information to provide services to clients; and
- maintains physical, electronic and procedural safeguards that comply with federal standards to guard clients' personal information.

6749\001\1708496.10