



## **VENOR CAPITAL MANAGEMENT LP**

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### **FORM ADV PART 2A: FIRM BROCHURE**

**July 19, 2011**

Venor Capital Management LP is an investment adviser that is registered with the U.S. Securities and Exchange Commission. Registration with U.S. Securities and Exchange Commission does not imply a certain level of skill or training.

**This brochure provides information about the qualifications and business practices of Venor Capital Management LP. If you have any questions about the contents of this brochure, please contact us at (212) 703-2100. The information in this brochure has not been approved or verified by the U.S. Securities and Exchange Commission or by any state securities authority.**

**Additional information about Venor Capital Management LP also is available on the Securities and Exchange Commission's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

**Material Changes**

Item 2 is not applicable to Venor Capital Management LP for this Form ADV Part 2 brochure because this is the first brochure of Venor Capital Management LP.

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

Venor Capital Management LP, a Delaware limited partnership founded in July 2005, is an investment advisory firm with its principal place of business in New York, New York. Venor Capital Management GP LLC, a Delaware limited liability company, is the general partner of Venor Capital Management LP. Jeffrey A. Bersh and Michael J. Wartell are the co-founders and Co-Chief Investment Officers of Venor Capital Management LP and the co-founders and co-managing members of each of Venor Capital Management GP LLC and Venor Capital GP LLC, a Delaware limited liability company that serves as the general partner of each of Venor Capital Partners LP, Venor Capital Intermediate Fund LP and GS Raven Holdings, L.P. In addition, Mr. Bersh and Mr. Wartell each own greater than 25% of each of Venor Capital Management LP, Venor Capital Management GP LLC and Venor Capital GP LLC. As such, Mr. Bersh and Mr. Wartell control our firm.

Our firm provides investment advisory services to the following private investment funds, which constitute our client fund:

- Venor Capital Master Fund Ltd., a Cayman Islands exempted company;
- Venor Capital Offshore Ltd., a Cayman Islands exempted company;
- Venor Capital Intermediate Fund LP, a Cayman Islands exempted limited partnership; and
- Venor Capital Partners LP, a Delaware limited partnership.

Our client fund is exempt from registration under the U.S. Investment Company Act of 1940, as amended, and none of the securities of each of the foregoing are registered under the U.S. Securities Act of 1933, as amended. Our client fund offers securities to investors only through private placements of such securities. We describe detailed terms applicable to investors in our client fund in our client fund's organizational documents and confidential offering memorandum.

Our firm also provides investment advisory services to an investment partner by way of the following special purpose fund (and its wholly-owned subsidiary), which constitutes our special purpose client fund:

- GS Raven Holdings, L.P., a Delaware limited partnership.

Our arrangement with the special purpose client fund is governed by an investment management agreement between our firm and the special purpose client fund. The difference between the investment objective of our client fund (described below) and our special purpose client fund is that our special purpose client fund generally is limited to investing in longer-term, special situations investments, which are typically also held in the portfolio of our client fund. Our firm may, in the future, organize other special purpose funds or manage separately managed accounts that may follow an investment program similar to or different from our current client fund and special purpose client fund.

Our firm tailors our advisory services to the individual needs of our clients. Our clients share the investment objective of seeking to achieve superior and consistent absolute investment returns primarily through capital appreciation in all market conditions, while concentrating on preservation of capital. Our clients focus on opportunities resulting from catalyst-driven events and/or value propositions created by market inefficiencies. The investment process utilized by our clients is credit-specific with a focus on three main strategies: directional opportunities, capital structure arbitrage and paired relative value. Our clients seek to achieve their objectives through the union of a thorough research process and an experienced trading discipline.

Our firm does not participate in wrap fee programs.

We describe investment strategies our firm employs on behalf of our clients in greater detail below in Item 8. We also describe investment strategies our firm employs on behalf of our client fund in the offering documents of our client fund.

As of July 1, 2011, our firm managed \$686,571,000 of client assets on a discretionary basis and managed no client assets on a non-discretionary basis.

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

### ***Fees***

Our firm, or an affiliate of our firm, typically receives compensation from our clients based on the percentage of assets we manage and by receiving performance-based compensation.

The management fee is typically between 1.0% and 1.5% per year of the client's net assets, typically determined and payable monthly in advance. Our clients generally do not obtain a refund of a pre-paid management fee because the advisory contract cannot be terminated before the end of the billing period.

With respect to our client fund, the incentive allocation is between 15% and 20% of the net realized and unrealized appreciation in the client fund's net assets. We typically determine and allocate the incentive allocation on an annual basis, but will determine and allocate it for shorter periods under certain circumstances (such as with respect to amounts withdrawn or redeemed from our client fund). The incentive allocation is subject to a loss carryforward or high water mark provision that generally requires that any losses suffered by the client fund (adjusted to reflect withdrawals and redemptions) be offset by subsequent net profits before our firm is entitled to subsequent incentive allocations from the client fund.

Our special purpose client fund makes investments over a series of separate, sequential investment periods. Investors in our special purpose client fund pay 10% carried interest after (i) a return of capital contributions made for portfolio investments during the applicable investment period, all management fees and expenses, and realized investments from other investment periods, and (ii) accounting for unrealized losses from other investment periods.

Our fees are deducted from the accounts of the investors in our client fund and from the special purpose client fund, although the investment partner may elect to have our fees billed directly to the investment partner. Our fees are generally not negotiable. Our firm may waive, reduce or otherwise modify the management fee and/or incentive allocation for any investor in our client fund, including affiliates of our firm. In addition, we occasionally enter into side letter arrangements with certain investors in our client fund, in which we grant such investors preferential terms.

The details of how the management fee and incentive allocation are calculated for our client fund can be found in the organizational and offering documents of our client fund, which are provided to investors and potential investors in our client fund. The details of how the management fee and carried interest are calculated for the special purpose client fund are included in our investment management agreement with, and in the organizational documents of, the special purpose client fund.

### ***Expenses***

Generally, each of our clients bears its own operating and other expenses, including, but not limited to:

- The management fee;
- Fees to the administrator;
- Investment expenses (i.e., expenses related to the investment of our client fund's assets, including, without limitation, brokerage commissions, interest expense, professional and consulting fees relating to particular investments and expenses related to the purchase and sale of securities, investment-related travel and lodging expenses and research-related expenses, including, without limitation, news and quotation equipment and services);
- Legal expenses;
- Accounting, audit and tax preparation expenses
- Taxes;
- Other expenses associated with the operation of our client fund; and
- All extraordinary expenses.

Neither our firm nor any of our supervised persons receives any transaction-based compensation for the sale of securities or other investment products.

A description of the brokerage and other transaction costs that will be borne by our clients is in Item 12 (Brokerage Practices) of this brochure.

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

As described in Item 5 above, our firm receives part of its compensation from clients in the form of performance-based compensation. Also as described in Item 5 above, our firm may waive, reduce or otherwise modify the incentive allocation for any investor in our client fund, including affiliates of our firm.

## **Item 7. Types of clients**

Our firm generally provides investment advice to our clients, and not individually to the investors in our clients. Investors in our clients may include high net worth individuals, trusts, estates, corporate and public pension and profit sharing plans, endowments, charitable organizations, funds of hedge funds and family offices.

The current minimum initial investment in our client fund is \$5,000,000. However, we may waive or reduce the minimum initial investment in certain circumstances, subject to statutory limitations.

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

### ***Methods of Analysis and Investment Strategies***

Our clients share the investment objective of seeking to achieve superior and consistent absolute investment returns primarily through capital appreciation in all market conditions, while concentrating on preservation of capital. Our clients focus on opportunities resulting from catalyst-driven events and/or value propositions created by market inefficiencies. The investment process utilized by our clients is

credit-specific with a focus on three main strategies: directional opportunities, capital structure arbitrage and paired relative value. The particular strategy employed with respect to a particular group of investments may change over time.

Our clients may invest in corporate bonds, bank loans, equities, credit derivatives, busted convertibles, trade/lease claims, preferred stock, liquidating trusts, rescue funding and other financial obligations. Our clients seek to achieve their objectives through the union of a thorough research process and an experienced trading discipline. The difference between the investment objective of our client fund and our special purpose client fund is that our special purpose client generally is limited to investing in longer-term, special situations investments, which are typically also held in the portfolio of our client fund.

The focus of the portfolios of our clients is on companies predominately based in North America and western Europe, but may include companies based in other Organisation for Economic Co-Operation and Development countries and Latin America. Our firm believes that Mr. Bersh's and Mr. Wartell's breadth of knowledge and experience will enable them to identify and pursue the most attractive risk/reward situations regardless of market, industry, region or layer of the capital structure.

Our firm conducts detailed due diligence in advance of taking positions and continuously updates its risk analysis during the investment period as new information becomes available. To limit risk our firm seeks to diversify the portfolios of our clients with respect to specific credits, sectors and asset classes. Our firm also attempts to mitigate both position specific risk and systemic volatility by utilizing significant short positions directly or indirectly related to our clients' long positions. The benefits of reducing this risk outweigh the potential costs of mitigating the returns of the long portfolio. Exposure is actively monitored by company, industry, market and position size.

Despite our firm's research and analysis, investing in any securities involves a risk of loss that any clients and investors in our clients must be prepared to bear. Please see the "Risks" section below for a detailed explanation of the investment strategies our firm employs and some of the significant risks associated with them.

### ***Risks***

The investment strategy we use entails substantial risks, including, but not limited to, those listed below. Further risk factors are listed in the offering documents of our client fund.

#### **General Risk Factors**

**Dependence on Key Individuals.** Investors in our client fund have no authority to make decisions on behalf of our client fund, and the owners of our special purpose client fund have very limited authority to make decisions on behalf of our special purpose client fund. The success of our clients depends upon the ability of our firm, particularly those of Mr. Bersh and Mr. Wartell, to develop and implement investment strategies that achieve our clients' investment objective. If our clients were to lose the services of either of Mr. Bersh or Mr. Wartell, the consequence to our clients could be material and adverse and could lead to the premature termination of our clients.

**Absence of Regulatory Oversight.** While our client fund may be considered similar to an investment company, our client fund is not required to, and does not intend to, register as an investment company under the Investment Company Act or the laws of any jurisdiction and, accordingly, the provisions of such statutes (which may provide certain regulatory safeguards to investors) are not applicable.

**“Master-Feeder” Structure.** Our client fund generally invests through a “master-feeder” structure, which presents certain unique risks to investors in our client fund. For example, a smaller feeder fund investing in the master fund may be materially affected by the actions of a larger feeder fund investing in the master fund.

**Limited Liquidity.** An investment in our client fund is suitable only for certain sophisticated investors that have no need for immediate liquidity in their investment. This type of investment provides limited liquidity because interests in our client fund cannot be transferred freely. In addition our firm may suspend withdrawal rights, in whole or in part, under certain circumstances. These limitations on liquidity must be considered significant.

**Effect of Withdrawals.** A significant withdrawal of capital by investors from our client fund may cause a temporary imbalance in our client fund’s portfolio which may adversely affect the remaining investors in our client fund.

**In-Kind Distributions.** Although our client fund will endeavor to pay all withdrawals in cash, an investor withdrawing from our client fund may, in the discretion of our firm, receive securities owned by our client fund directly or via the distribution of interests in a liquidating account or vehicle in lieu of, or in combination with, cash. The value of securities distributed may increase or decrease before the securities can be sold, and such withdrawing investor will incur transaction costs in connection with the sale of such securities. Additionally, securities distributed with respect to a withdrawal by an investor in our client fund may not be readily marketable. The risk of loss and delay in liquidating these securities will be borne by such withdrawing investor, with the result that such withdrawing investor may receive less cash than it would have received on the date of withdrawal.

**Business and Regulatory Risks of Hedge Funds.** Legal, tax and regulatory changes could occur during the term of our clients that may adversely affect our clients and/or investors in our clients. The regulatory environment for hedge funds is evolving, and changes in the regulation of hedge funds may adversely affect the value of investments held by our clients. In addition, securities markets are subject to comprehensive statutes and regulations. The U.S. Securities and Exchange Commission, other regulators and self-regulatory organizations and exchanges are authorized to take extraordinary actions in the event of market emergencies. The effect of any future regulatory change on our clients could be substantial and adverse.

#### Conflict of Interest Risks

**Management of More than One Client.** Certain inherent conflicts of interest arise from the fact that our firm and its affiliates will provide investment management services both to our client fund and our special purpose client fund. The portfolio strategies employed by our firm for our client fund could conflict with the transactions and strategies employed by our firm in managing our special purpose client fund and may affect the prices and availability of the securities and instruments in which our special purpose client fund invests, and vice versa. Participation in specific investment opportunities may be appropriate, at times, for our client fund and special purpose client fund. In such case, participation in such opportunities will be allocated on an equitable basis, taking into account such factors as the relative amounts of capital available for new investments, relative exposure to short-term market trends, the tax situation and the respective investment programs and portfolio positions of our client fund and special purpose client fund for which participation is appropriate. Orders may be combined for all such clients, and if any order is not filled at the same price, they may be allocated on an average price basis. Such considerations may result in allocations of certain investments among our client fund and special purpose client fund on other than a *pari passu* basis. The use of a master-feeder structure also may create a conflict of interest in that different tax considerations among the feeder funds of our client fund may cause the master fund of our



client fund to structure or dispose of an investment in a manner that is more advantageous to one feeder fund.

**Management Fee and Performance-Based Compensation.** The management fee and the performance-based compensation arrangements for our clients have not been negotiated at arm's-length. The existence of the incentive allocation with respect to our client fund and the carried interest with respect to our special purpose client fund may create an incentive for our firm to make more speculative investments on behalf of our clients than it would otherwise make in the absence of such performance-based compensation. Such performance-based compensation may result in compensation to our firm that may be greater than performance-based compensation allocable to other managers for similar services. In addition, because the incentive allocation for our client fund is allocated based upon both realized and unrealized gains, there can be no assurance that such unrealized gains will ultimately be realized.

**Side Letters.** Our client fund may enter into side letters or similar agreements with certain investors in our client fund which may have the effect of establishing rights, terms or conditions (including, without limitation, reductions in management fees and incentive allocation or other preferential terms, such as access to co-investment opportunities) with respect to such investors that are more favorable than the rights, terms and conditions established in favor other investors in our client fund.

#### Tax Risks

**Phantom Income.** Each investor subject to U.S. tax that invests in a client that is treated as a partnership for U.S. federal income tax purposes will be required to take into account its distributive share of all items of such client's income, gain, loss, deduction and credit, whether or not distributed. Our client fund does not expect to make regular cash distributions to its investors. Further, as a result of certain operating limitations, an investor in our client fund cannot be certain that it will be permitted to withdraw all or a portion of its interest in our client fund in order to generate cash distributions sufficient to satisfy its tax liability with respect to its share of our client fund's profits. Accordingly, each investor in our client fund should ensure that it has sufficient cash flow from other sources to pay all tax liabilities resulting from such investor's ownership of its interest in our client fund.

**Unrelated Business Taxable Income for Certain Tax-Exempt Investors.** Pension and profit-sharing plans, Keogh plans, individual retirement accounts and other tax-exempt investors may realize "unrelated business taxable income," also known as UBTI, as a result of an investment in a client that is treated as a partnership for U.S. federal income tax purposes. Our clients may elect to participate in investments that give rise to UBTI through entities that are treated as partnerships for U.S. federal income tax purposes. Because of the "flow-through" principles applicable to partnerships, if UBTI is earned by client that is treated as a partnership for U.S. federal income tax purposes, a tax-exempt investor in such client will realize UBTI.

**Other Tax Risks.** Changes in existing tax laws or regulations and their interpretation may occur and could alter the income tax consequences of an investment in any of our clients. In addition, our clients may take positions with respect to certain tax issues that depend on legal and other interpretive conclusions. If the U.S. Internal Revenue Service or other applicable taxing authority successfully challenges any of these positions, an investor in such client may be found to have a different tax liability for that year than that reported on his or its U.S. federal income tax return. An audit of one of our clients may result in an audit of the returns of some or all of its investors, which examination could result in adjustments to the tax consequences initially reported by such client and affect items not related to an investment in such client. If such adjustments result in an increase in an investor's U.S. federal income tax liability for any year, such investor may also be liable for interest and penalties with respect to the amount of underpayment.

The taxation of our clients and their respective investors is complex. In addition, with respect to certain countries, there is a possibility of expropriation, confiscatory taxation, imposition of withholding or other taxes on dividends, interest, capital gains or other income, limitations on the removal of funds or other assets of our clients, political or social instability or diplomatic developments that could affect investments in those countries. An issuer of securities may be domiciled in a country other than the country in whose currency the instrument is denominated. The values and relative yields of investments in the securities markets of different countries, and their associated risks, are expected to change independently of each other.

Any of the foregoing legal, regulatory and tax risks could give rise to material liabilities in periods after the occurrence of the transactions or other events giving rise to the claim. Consequently, such liabilities could be borne by investors who were not investors in our client fund at the time of such transactions and who did not derive any financial returns associated with such transactions.

### Investment and Trading Risks

**General Investments Risks.** An investment in any of our clients involves a high degree of risk, including the risk that the entire amount invested may be lost. Our clients may invest in debt and equity securities and other financial instruments using investment techniques with significant risk characteristics. We make no guarantee that our clients' investment program will be successful. Our clients' investment program may utilize such investment techniques as short sales, options, swaps and other derivatives investments which practices can, in certain circumstances, maximize the adverse impact to which our clients may be subject.

**Liquidity of Investments.** Our clients may invest in securities which are subject to legal or other restrictions on transfer or for which no liquid market exists. Our clients may not be able to sell such securities when it desires to do so or to realize what it perceives to be their fair value in the event of a sale.

**Recent Developments in Financial Markets.** Recent developments in the global financial markets illustrate that the current environment is one of extraordinary and possibly unprecedented uncertainty. In light of such recent market turmoil and the overall weakening of the financial services industry, our clients, their respective prime brokers' and other financial institutions' financial condition may be adversely affected and they may become subject to legal, regulatory, reputational and other unforeseen risks that could have a material adverse effect on our clients' business and operations.

**Financial Markets and Regulatory Change.** In addition to specific business and regulatory risks of hedge funds listed above, the laws and regulations affecting businesses in general continue to evolve in an unpredictable manner. Laws and regulations, particularly those involving taxation, investment and trade, applicable to our clients' activities can change quickly and unpredictably, and may at any time be amended, modified, repealed or replaced in a manner adverse to the interests of our clients. Our clients and our firm may be, or may become, subject to unduly burdensome and restrictive regulation. In particular, in response to significant recent events in international financial markets, governmental intervention and certain regulatory measures have been or may be adopted in certain jurisdictions. The extent to which the underlying causes of these recent events are pervasive throughout global financial markets and have the potential to cause further instability is not yet clear. These recent events, and their underlying causes, are likely to be the catalyst for changes in global financial regulation for some time, and may result in major and unavoidable losses to our clients.

**Political, Economic and Other Conditions.** Our clients' investments may be adversely affected by changes in economic conditions or political events that are beyond its control. For example, a stock

market break, continued threats of terrorism, the outbreak of hostilities involving the United States, or the death of a major political figure may have significant adverse effects on our clients' investment results.

**Risks Associated with Investments in Distressed Securities.** Our clients may invest in securities of companies that are experiencing significant financial or business difficulties, including companies involved in bankruptcy or other reorganization and liquidation proceedings. Although such investments may result in significant returns to our clients, they may involve a substantial degree of risk.

Troubled company and other asset-based investments require active monitoring and may, at times, require participation in business strategy or reorganization proceedings by our firm. To the extent that our firm becomes involved in such proceedings, our clients may have a more active participation in the affairs of the issuer than that assumed generally by an investor. In addition, involvement by our firm in an issuer's reorganization proceedings could result in the imposition of restrictions limiting our clients' ability to liquidate their positions in the issuer.

Our clients may invest in bonds or other fixed income securities, including, without limitation, "higher yielding" (and, therefore, higher risk) debt securities, when our firm believes that such securities offer opportunities for capital growth. Such securities may be below "investment grade" and face ongoing uncertainties and exposure to adverse business, financial or economic conditions which could lead to the issuer's inability to meet timely interest and principal payments. The market values of certain of these lower rated debt securities tend to reflect individual corporate developments to a greater extent than do higher rated securities, which react primarily to fluctuations in the general level of interest rates. It is likely that a major economic recession could have a materially adverse impact on the value of such securities. In addition, adverse publicity and investor perceptions, whether or not based on fundamental analysis, may also decrease the value and liquidity of securities rated below investment grade.

**Risks Associated with Bankruptcy Cases.** Many of the events within a bankruptcy case are adversarial and often beyond the control of the creditors. While creditors generally are afforded an opportunity to object to significant actions, there can be no assurance that a bankruptcy court would not approve actions which may be contrary to the interests of our clients. Furthermore, there are instances where creditors and equity holders lose their ranking and priority as such when they take over management and functional operating control of a debtor. In those cases where our clients, by virtue of such action, is found to exercise "domination and control" of a debtor, our clients may lose its priority if the debtor can demonstrate that its business was adversely impacted or other creditors and equity holders were harmed by our clients.

Generally, the duration of a bankruptcy case can only be roughly estimated. Unless our clients' claim in such case is secured by assets having a value in excess of such claim, no interest will be permitted to accrue and, therefore, our clients' return on investment can be adversely affected by the passage of time during which the plan of reorganization of the debtor is being negotiated, approved by the creditors, and confirmed by the bankruptcy court. It should also be noted that reorganizations outside of bankruptcy are also subject to unpredictable and potentially lengthy delays.

U.S. bankruptcy law permits the classification of "substantially similar" claims in determining the classification of claims in a reorganization for purposes of voting on a plan of reorganization. Because the standard for classification is vague, there exists a significant risk that our clients' influence with respect to a class of securities can be lost by the inflation of the number and the amount of claims in, or other gerrymandering of, the class.

The administrative costs in connection with a bankruptcy proceeding are frequently high and will be paid out of the debtor's estate prior to any return to creditors (other than out of assets or proceeds hereof, which are subject to valid and enforceable liens and other security interests) and equity holders. In

addition, certain claims that have priority by law over the claims of certain creditors (for example, claims for taxes) may be quite high.

Our firm, on behalf of any of our clients, may elect to serve on creditors' committees or other groups to ensure preservation or enhancement of such client's position as a creditor. A member of any such committee or group may owe certain obligations generally to all parties similarly situated that the committee represents. If our firm concludes that its obligations owed to the other parties as a committee or group member conflict with its duties owed to such client, it will resign from that committee or group, and such client may not realize the benefits, if any, of participation on the committee or group. In addition, if any of our clients is represented on a committee or group, it may be restricted or prohibited under applicable law from disposing of its investments in such company while it continues to be represented on such committee or group.

Our clients may purchase creditor claims subsequent to the commencement of a bankruptcy case. Under judicial decisions, it is possible that such purchase may be disallowed by the bankruptcy court if the court determines that the purchaser has taken unfair advantage of an unsophisticated seller, which may result in the rescission of the transaction (presumably at the original purchase price) or forfeiture by the purchaser.

**Relative Value Strategies.** Relative value strategies involve taking offsetting long and short positions in comparable securities which have either an economic or mathematical relationship to each other and where a distortion exists between either the historical price or the fair value of that relationship. These strategies may include merger arbitrage, convertible arbitrage, intra-industry pairs trades, cross-holdings and capital structure trades. Although there is an economic or mathematical relationship between such long and short positions, there is no guarantee that our firm's assessment of that relationship will be correct. Furthermore, because our clients' strategies may involve short selling, there is a risk that our clients will not be able to maintain their ability to borrow securities that have been sold short.

**Investments in Undervalued Equity Securities.** One of the objectives of our clients is to invest in the equity securities of undervalued companies. The identification of investment opportunities in undervalued securities is a difficult task, and our firm cannot assure that such opportunities will be successfully recognized or acquired. While investments in undervalued securities offer the opportunities for above-average capital appreciation, these investments involve a high degree of financial risk and can result in substantial losses. In addition, our clients may be required to hold such securities for a substantial period of time before realizing their anticipated value. During this period, a portion of our clients' funds would be committed to the securities purchased, thus possibly preventing our clients from investing in other opportunities.

**Forward Trading.** Forward contracts and options thereon, unlike futures contracts, are not traded on exchanges and are not standardized; rather banks and dealers act as principals in these markets, negotiating each transaction on an individual basis. Forward and "cash" trading is substantially unregulated; there is no limitation on daily price movements and speculative position limits are not applicable. The principals who deal in the forward markets are not required to continue to make markets in the currencies or commodities they trade and these markets can experience periods of illiquidity, sometimes of significant duration. There have been periods during which certain participants in these markets have refused to quote prices for certain currencies or commodities or have quoted prices with an unusually wide spread between the price at which they were prepared to buy and that at which they were prepared to sell. Disruptions can occur in any market traded by our clients due to unusually high trading volume, political intervention or other factors. The imposition of controls by governmental authorities might also limit such forward (and futures) trading to less than that which our firm would otherwise recommend, to the possible detriment of our clients. Market illiquidity or disruption could result in major losses to our clients.

**Leverage and Financing Risk.** Generally, leverage may be utilized on an opportunistic basis when warranted under the circumstances as determined by our firm. Accordingly, our clients may pledge their securities in order to borrow additional funds for investment purposes. Our clients may also leverage their investment return with options, commodity futures contracts, short sales, swaps, forwards and other derivative instruments. The amount of borrowings which our clients may have outstanding at any time may be substantial in relation to their capital.

While leverage presents opportunities for increasing our clients' total return, it has the effect of potentially increasing losses as well. Accordingly, any event which adversely affects the value of an investment by our clients would be magnified to the extent our clients are leveraged. The cumulative effect of the use of leverage by our clients in a market that moves adversely to our clients' investments could result in a substantial loss which would be greater than if no leverage were utilized.

In the futures and forward markets, margin deposits are typically low relative to the value of the futures contracts purchased or sold. Such low margin deposits are indicative of the fact that any futures or forward contract trading is typically accompanied by a high degree of leverage. Low margin deposits mean that a relatively small price movement in a contract may result in immediate and substantial losses to the investor.

In general, the use of short-term margin borrowings results in certain additional risks to our clients. For example, should the securities pledged to brokers to secure our clients' margin accounts decline in value, our clients could be subject to a "margin call," pursuant to which our clients must either deposit additional funds or securities with the broker, or suffer mandatory liquidation of the pledged securities to compensate for the decline in value. In the event of a sudden drop in the value of our clients' assets, our clients might not be able to liquidate assets quickly enough to satisfy margin requirements.

**Hedging Transactions.** Our firm is not required to attempt to hedge portfolio positions in our clients and, for various reasons, may determine not to do so. Furthermore, our firm may not anticipate a particular risk so as to hedge against it. Our clients may utilize financial instruments, both for investment purposes and for risk management purposes in order to: (i) protect against possible changes in the market value of our clients' investment portfolios resulting from fluctuations in the securities markets and changes in interest rates; (ii) protect the unrealized gains in the value of our clients' investment portfolios; (iii) facilitate the sale of any such investments; (iv) enhance or preserve returns, spreads or gains on any investment in our clients' portfolios; (v) hedge the interest rate or currency exchange rate on any of our clients' liabilities or assets; (vi) protect against any increase in the price of any securities our clients anticipate purchasing at a later date; or (vii) for any other reason that our firm deems appropriate.

The success of the hedging strategy of our clients will be subject to our firm's ability to correctly assess the degree of correlation between the performance of the instruments used in the hedging strategy and the performance of the investments in the portfolios being hedged. Because the characteristics of many securities change as markets change or time passes, the success of our clients' hedging strategy will also be subject to our firm's ability to continually recalculate, readjust, and execute hedges in an efficient and timely manner. While our clients may enter into hedging transactions to seek to reduce risk, such transactions may result in a poorer overall performance for our clients than if it had not engaged in any such hedging transactions. For a variety of reasons, our firm may not seek to establish a perfect correlation between such hedging instruments and the portfolio holdings being hedged. Such imperfect correlation may prevent our clients from achieving the intended hedge or expose our clients to risk of loss. The successful utilization of hedging and risk management transactions requires skills complementary to those needed in the selection of our clients' portfolio holdings.

**Short Selling.** Short selling involves selling securities which are not owned and borrowing them for delivery to the purchaser, with an obligation to replace the borrowed securities at a later date. Short selling allows the investor to profit from declines in market prices to the extent such decline exceeds the transaction costs and the costs of borrowing the securities. The extent to which our clients engages in short sales will depend upon our firm's investment strategy and opportunities. A short sale creates the risk of a theoretically unlimited loss, in that the price of the underlying security could theoretically increase without limit, thus increasing the cost to our clients of buying those securities to cover the short position.

**Certain Derivative Investments.** Our clients may purchase and sell ("write") options on securities, currencies and commodities on U.S. and non-U.S. exchanges and over-the-counter markets. The seller of a put option assumes the risk of a decline in the market price of the underlying instrument below the exercise price of the option. The buyer of a put option assumes the risk of losing its entire investment in the put option. If the buyer of the put holds the underlying instrument, the loss on the put will be offset in whole or in part by any gain on the underlying instrument.

The writer of a call option which is covered (e.g., the writer has a long position in the underlying instrument) gives up the opportunity for gain on the underlying instrument above the exercise price of the option. The seller of an uncovered call option assumes the risk of a theoretically unlimited increase in the market price of the underlying instrument above the exercise price of the option. The buyer of a call option assumes the risk of losing its entire investment in the call option.

Options may be cash settled, settled by physical delivery or by entering into a closing purchase transaction. In entering into a closing purchase transaction, our clients may be subject to the risk of loss to the extent that the premium paid for entering into such closing purchase transaction exceeds the premium received when the option was written. Swaps and certain options and other custom instruments are subject to the risk of non-performance by the swap counterparty, including risks relating to the creditworthiness of the swap counterparty.

**Futures Contracts.** Nothing precludes our clients from trading in futures contracts and at any time our clients may start trading in futures contracts (and options on futures). Futures positions may become illiquid. For example, most commodity exchanges limit fluctuations in certain futures contract prices during a single day by regulations referred to as "daily price fluctuation limits" or "daily limits." Under such daily limits, during a single trading day no trades may be executed at prices beyond the daily limits. Once the price of a contract for a particular future has increased or decreased by an amount equal to the daily limit, positions in the future can neither be taken nor liquidated unless traders are willing to effect trades at or within the limit. Futures contract prices on various commodities or financial instruments occasionally have moved the daily limit for several consecutive days with little or no trading. Similar occurrences could prevent our clients from promptly liquidating unfavorable positions and subject our clients to substantial losses. In addition, our clients may not be able to execute futures contract trades at favorable prices if trading volume in such contracts is low. It is also possible that an exchange or a regulator (such as the U.S. Securities and Exchange Commission or the U.S. Commodity Futures Trading Commission) may suspend trading in a particular contract, order immediate liquidation and settlement of a particular contract or order that trading in a particular contract be conducted for liquidation only. In addition, the U.S. Commodity Futures Trading Commission and various exchanges impose speculative position limits on the number of positions that may be held in particular commodities. Trading in futures contracts and options are highly specialized activities that may entail greater than ordinary investment or trading risks.

**Margin on Futures and Leverage.** In futures markets, margin deposits are typically low relative to the nominal value of the futures contracts purchased or sold. In the forward, currency and certain other derivative markets, margin deposits may be even lower or may not be required at all. Such low margin

deposits are indicative of the fact that any futures contract trading typically is accompanied by a high degree of leverage. Low margin deposits mean that a relatively small price movement in a futures contract may result in immediate and substantial losses to the investor. Thus, like other leveraged investments, any purchase or sale of a futures contract may result in losses in excess of the amount invested.

**Swap Transactions.** Depending on their structure, swap agreements may increase or decrease our clients' exposure to equity securities, long-term or short-term interest rates, foreign currency values, corporate borrowing rates or other reference assets. Depending on how they are used, swap agreements may increase or decrease the overall volatility of our clients' portfolios. The most significant factors in the performance of swap agreements is the change in the individual equity values, the specific interest rate, the currency value and other reference assets that determine the amounts of payments due to our clients. If a swap agreement calls for payments by our clients, our clients must be prepared to make such payments when due. In addition, if a counterparty's creditworthiness declines, the value of swap agreements with such counterparty can be expected to decline, potentially resulting in losses by our clients.

Swap transactions are not traded on exchanges and are not subject to the same type of government regulation as exchange markets. As a result, many of the protections afforded to participants on organized exchanges and in a regulated environment are not available in connection with these transactions.

Trading in swaps and other derivative instruments can permit a high degree of synthetic leverage. Accordingly, the leverage offered by trading in derivative instruments may magnify the gains and losses experienced by our clients and could cause our clients' net asset value to be subject to wider fluctuations than would be the case if our clients did not use derivative instruments that provide leverage. Thus, like other leveraged investments, a derivatives trade may result in losses in excess of the amount invested. Any increase in the amount of leverage applied in trading will increase the risk of loss by the amount of additional leverage applied.

**Credit Default Swaps.** Our clients may invest in credit default swaps. Credit default swaps can be used to implement our firm's view that a particular credit, or group of credits, will experience credit improvement or deterioration. In the case of expected credit improvement, our firm may sell on behalf of our clients credit default protection in which it receives a premium to take on the risk. In such an instance, the obligation of our clients to make payments upon the occurrence of a credit event creates leveraged exposure to the credit risk of the referenced entity. Our clients may also buy credit default protection with respect to a referenced entity if, in the judgment of our firm, there is a high likelihood of credit deterioration. In such instance, our clients will pay a premium regardless of whether there is a credit event. The credit default swap market in high-yield securities is comparatively new and rapidly evolving compared to the credit default swap market for more seasoned and liquid investment-grade securities, creating the risk that the newer markets will be less liquid, and making it potentially more difficult to exit or enter into a particular transaction.

**Counterparty Risk.** Some of the markets in which our clients may effect transactions are "over-the-counter" or "interdealer" markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of "exchange-based" markets. This exposes our clients to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not *bona fide*) or because of a credit or liquidity problem, thus causing our clients to suffer a loss.

**Bankruptcy Rules.** Any cash and securities maintained by our clients in accounts at U.S. broker-dealers registered with the U.S. Securities and Exchange Commission and Financial Industry Regulatory Authority are protected to a limited degree by the U.S. Securities Investor Protection Corporation. In the event of the bankruptcy of a broker-dealer, if sufficient funds are not available in the broker-dealer's

customer accounts to satisfy claims, the reserve funds of the U.S. Securities Investor Protection Corporation will be used to supplement the distribution, up to a ceiling of \$500,000 per customer, including a maximum of \$100,000 for cash claims. Therefore, our clients could be at risk of loss for any amounts in excess of the limit listed above. In addition, if our clients trades in futures contracts, bankruptcy law applicable to all U.S. futures commission merchants, also known as futures commission merchants, requires that, in the event of the bankruptcy of such a futures commission merchant, all property held by the futures commission merchant, including certain property specifically traceable to a customer, will be returned, transferred or distributed to the futures commission merchant's customers only to the extent of each customer's pro rata share of all property available for distribution to customers. If any futures commission merchant holding our clients' assets were to become bankrupt, it is possible that our clients would be able to recover none or only a portion of its assets held by such futures commission merchant. Furthermore, in the event of an insolvency of a futures commission merchant or other counterparty which is not regulated by the U.S. Commodity Futures Trading Commission, the U.S. Commodity Futures Trading Commission's segregation protections would not be available to our clients. Other custodians and counterparties may have similar types of risks. Assets held outside the United States may be subject to different and/or diminished protection in the event of a counterparty failure located in such jurisdiction.

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

Neither our firm nor any of our directors, officers or principals have been involved in any criminal or civil actions in a domestic, foreign or military court.

Neither our firm nor any of our directors, officers or principals have been involved in any administrative proceedings before the U.S. Securities and Exchange Commission, any other federal regulatory agency, any state regulatory agency or any foreign financial regulatory authority.

Neither our firm nor any of our directors, officers or principals have been involved in any self-regulatory organization proceedings.

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

##### ***Material Financial Industry Affiliations of the Firm***

Neither our firm nor any of our directors, officers or principals is registered, or has an application pending to register, as a broker-dealer, registered representative of a broker-dealer, futures commission merchant, commodity pool operator, commodity trading advisor, or is an associated person of any of the above.

Neither our firm nor any of our directors, officers or principals has a related person among any of the categories listed in Item 10(C) of Form ADV Part 2A other than Venor Capital GP LLC, a Delaware limited liability company affiliated with our firm, that serves as the general partner of Venor Capital Partners LP, Venor Capital Intermediate Fund LP and GS Raven Holdings, L.P.

Finally, our firm does not recommend or select other investment advisers for its clients for which our firm receives compensation directly or indirectly from those advisers that creates a material conflict of interest, nor does our firm have other business relationships with advisers that create material conflicts of interest.



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

### ***Code of Ethics***

We have adopted a Code of Ethics in accordance with U.S. Securities and Exchange Commission requirements. The purpose of our Code of Ethics is to identify the ethical and legal framework in which our firm and its personnel are required to operate and to highlight some of the guiding principles and mechanisms for upholding our firm's standard of business conduct. Our Code of Ethics is designed to ensure that all applicable personnel are aware of and adhere to our firm's policies and procedures. The description below is summary only. We will provide a complete copy of our Code of Ethics to clients and prospective clients, as well as investors and prospective investors in our client fund upon request.

***Standard of Business Conduct.*** Our firm and its personnel have a fiduciary duty to our clients, and, in this fiduciary capacity, we must place the interests of our clients before our own interests.

***Basic Principles.*** Our Code of Ethics is based on a few basic principles: (i) our firm and its personnel must place the interests of our clients above their own; (ii) the professional activities and personal investment activities of our firm's personnel must be consistent with our Code of Ethics and avoid any actual or potential conflict between the interests of clients and those of our firm or its personnel; (iii) the activities of our firm's personnel must be conducted in a way that avoids any abuse of any such person's position of trust with and responsibility to our firm and clients; (iv) our employees must not take any inappropriate advantage of their positions at our firm; (v) we must maintain independent in our investment decision-making process; and (vi) our firm's personnel may not engage in any act, practice or course of conduct that would violate the provisions of Rule 204A-1 and other applicable securities laws.

***Conflicts of Interest.*** As a fiduciary, our firm has an affirmative duty of care, loyalty, honesty and good faith to act in the best interests of clients. Our firm makes every effort to avoid conflicts of interest and fully disclose all material facts concerning any conflict of interest that may arise with respect to any client. Our firm stresses that individuals subject to our Code of Ethics must try to avoid situations that have even the appearance of conflict or impropriety.

***Insider Trading.*** Our firm's personnel may not trade, either personally or on behalf of another, on material non-public information or communicate material non-public information to another person in violation of the law. This policy applies to all of our firm's personnel and extends to their activities both within and outside their duties for our firm. Our firm has also implemented policies and procedures designed to detect and prevent insider trading.

***Personal Securities Transactions.*** All personnel must comply with our firm's policy on personal trading. Except with respect to certain securities (including, indices, mutual funds, exchange-traded funds and certain government securities) and with respect to certain accounts for which a person does not exercise investment discretion, personal securities transactions by our firm's personnel must be pre-approved by our firm's Chief Compliance Officer.

***Holdings and Transactions Reports.*** Every employee and access person must submit both initial and annual holdings reports to our firm's Chief Compliance Officer that disclose all covered securities held in any personal account. Every employee and access person must also submit a quarterly transaction report to the Chief Compliance Officer for each covered securities transaction in any personal account.

***Service as a Director.*** Our firm's employees are prohibited from serving on the boards of directors of any outside company, unless the service (i) would be in the best interests of our firm or our clients, and (ii) has been approved in writing by our firm's Chief Compliance Officer; provided that our employees will not be required to obtain prior written approval for service on the boards of directors of charitable or

civic organizations. In addition, any employee serving on the board of a private company which is about to go public may be required to resign either immediately or at the end of the current term.

***Reporting of Violations.*** Our firm has implemented policies and procedures whereby our firm's personnel are required to report any violation, apparent violation or potential violation of our Code of Ethics to our firm's Chief Compliance Officer.

***Review and Enforcement.*** Our firm's Chief Compliance Officer is responsible for ensuring adequate supervision over the activities of all persons who act on our behalf in order to prevent and detect violations of our Code of Ethics by such persons.

## **Conflicts of Interest**

Neither our firm nor any related person of our firm recommends to clients, or buys or sells for client accounts, securities in which our firm or a related person of our firm has a material financial interest.

Our firm and related persons of our firm generally do not invest in the same securities (or related securities, e.g., warrants, options or futures) that our firm or a related person of our firm recommends to clients. In addition, our firm and related persons of our firm generally do not recommend securities to clients, or buys or sells securities for client accounts, at or about the same time that our firm or a related person buys or sells the same securities for our firm's own (or the related person's own) account. However, exceptions may be made on a limited basis as follows:

Our firm maintains lists of companies about which a determination has been made that it is prudent to restrict or limit trading activity based on the possibility that our firm and employees have access to material nonpublic information. Our Restricted List contains the names of such companies of which the equity and/or debt securities are publicly traded. Our Watch List contains the names of such companies of which no equity or debt security is publicly traded.

As a general rule, trades will not be allowed for clients, or for the personal accounts of employees, in the securities of an issuer appearing on the Restricted List, except with the pre-approval of our firm's Chief Compliance Officer. Trades will not be allowed for clients, or for the personal accounts of employees, in the securities of an issuer appearing on the Watch List unless the employee executing such trade has first reconfirmed that the issuer has not issued any publicly traded equity or debt securities. Restrictions and limitations with regard to securities on the Restricted List or Watch List are also considered to extend to options, rights or warrants relating to those securities and any securities convertible into those securities.

## **Item 12. Brokerage Practices**

### ***Selection of Brokers***

Our firm has full authority to select broker-dealers to execute our clients' investment transactions, and has appointed brokerage firms to act as "prime brokers" for each client. A firm appointed as a client's prime broker has certain administrative responsibilities, including the issuance of account statements and information with respect to securities transactions affected through other broker-dealers. A prime broker may be allocated a portion of our clients' securities transactions, subject to principles of best execution. Our firm may, in its discretion, change its selections of one or more prime brokers for our clients.

Our firm allocates a portion of each client's brokerage business to additional brokers on the basis of certain considerations, which may include:

- The amount of commission;
- The quality of execution;
- Reputation, financial strength and stability;
- Block trading and block positioning capabilities;
- Willingness to execute difficult transactions;
- Willingness and ability to commit capital;
- Access to underwritten offerings and secondary markets
- Ongoing reliability
- Overall costs of a trade
- Nature of the security and the available market makers
- Desired timing of the transaction and size of trade
- Confidentiality of trading activity; and/or
- Market intelligence regarding trading activity.

### ***Research and Soft Dollars***

The commissions paid to brokers will not necessarily represent the lowest commission rates available, but will reflect our firm's evaluation of the research and other brokerage related services supplied by such brokers and which benefit the client, either alone or together with other clients. In each case, our firm will make a determination that the amount of any increased commission costs on account of such research or other services is reasonable relative to the value of services so provided.

At this time our firm makes no use of soft dollar credits. However, our firm has the option to use "soft dollars" generated by our clients to pay for the research related services. The term "soft dollars" refers to the receipt by an investment adviser of products and services provided by brokers, without any cash payment by such investment manager, based on the volume of revenues generated from brokerage commissions for transactions executed for clients of the investment adviser. The products and services available from brokers include both internally generated items (such as research reports prepared by employees of the broker) as well as items acquired by the broker from third parties (such as quotation equipment). Section 28(e) of the U.S. Securities Exchange Act of 1934, as amended, provides a "safe harbor" to investment managers who use soft dollars generated by their advised accounts to obtain investment research and brokerage services that provide lawful and appropriate assistance to the investment manager in the performance of investment decision-making responsibilities. In the event that our firm utilizes allocations of commission dollars, it will do so solely to pay for products or services that qualify as "research and brokerage services" within the meaning of Section 28(e).

### ***Aggregation of Orders***

Our firm may or place as an aggregated order for execution orders for publicly traded securities placed at the same time for the accounts of two or more. This practice may enable our firm's clients to seek more favorable executions and net prices for the combined order. If the order cannot be executed in full at the same price or time, the securities actually purchased or sold by the close of each business day shall generally be allocated pro rata among the participating clients in accordance with the initial amounts ordered by each client. However, the pro rata allocation may be adjusted to avoid having odd amounts of shares held in any client's account or to avoid deviations from any pre-determined minimum/maximum holdings limits established for any client. Each client that participates in the order shall do so at the

average price for all the transactions and shall share in commissions or other transaction costs on a pro rata basis.

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

Jeffery A. Bersh and Michael J. Wartell, in their capacities as our firm's co-Chief Investment Officers, review client portfolios on a continuous basis.

Our firm provides to investors in each client such respective client's audited financial statements on an annual basis and unaudited monthly performance data on a monthly basis.

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

Our firm has entered into a third party referral agreement pursuant to which investors are referred to us for purposes of investing in our client fund. Payments made to the referral agent are paid by our firm, not from assets of our client fund.

Our firm will not enter into any additional arrangement to pay employees or third parties for the referral or solicitation of clients or investors in our client fund without the prior approval of Mr. Bersh or Mr. Wartell. In the event that our firm engages a third party to solicit clients or investors in our client fund on its behalf, appropriate disclosures must be made in the offering documents for such client fund.

Fee payments by our firm for client referrals are subject to Rule 206(4)-3 under the Investment Advisers Act. The rule requires that such payments be made pursuant to a written agreement between our firm and the soliciting person, that such payments and any other any affiliation with our firm be disclosed to the client, and that the solicitor not be disqualified for having violated securities or certain other laws. Accordingly, any solicitor used by our firm must enter into a written solicitation agreement with our firm and provide prospective clients or investors in our client fund with a separate disclosure document that describes the terms of the arrangement, including any compensation that the solicitor will receive and any impact on the level of fees to be paid by the prospective clients or investors in our client fund. Solicitors must also agree to perform their duties consistent with the instructions of our firm and any requirements under the Investment Advisers Act, and must provide representations that they are not subject to any statutory disqualifications. Finally, solicitors must deliver to prospective clients and investors in our client fund a copy of our firm's Form ADV Part 2 at the time of solicitation.

All solicitation arrangements must be reviewed and approved by, and the implementation of such arrangements will be coordinated by, our firm's Chief Compliance Officer.

### **Item 15. Custody**

Our firm is deemed to have custody over the assets of our clients according to the custody rule set forth in Rule 206(4)-2 under the Investment Advisers Act of 1940, as amended. Our firm complies with such custody rule by providing audited financial statements of each client to investors in such client within 120 days of the end of the fiscal year to satisfy the reporting requirement.

## **Item 16. Investment Discretion**

Our firm is provided with discretionary authority to manage the securities accounts of each of our clients as set forth in, and limited by, the terms and conditions of the relevant investment advisory agreement with such client. Our firm does not provide advisory services directly to the investors in our clients. Generally, our firm assumes such authority by receiving a power of attorney through the execution of our advisory agreement.

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

Our firm has the authority to vote proxies relating to securities in client accounts. Accordingly, our firm has adopted policies and procedures governing the voting of proxies that include the following elements:

**General Policy.** The general policy is to vote proxies, which includes proxy proposals, amendments, consents or resolutions relating to client securities, including interests in private investment funds, if any, in a manner that serves the best interests of the investing client(s), as determined by our firm in its discretion, and taking into account relevant factors, including, but not limited to:

- The impact on the value of the securities;
- The anticipated costs and benefits associated with the proposal;
- The effect on liquidity; and
- Customary industry and business practices.

**Specific Policies.** Specific policies set forth in our firm's policies and procedures include:

Routine Matters are typically proposed by company's management, directors, general partners, managing members or trustees and (i) do not measurably change the structure, management, control or operation of the company; (ii) do not measurably change the terms of, or fees or expenses associated with, an investment in the company; and (iii) are consistent with customary industry standards and practices, as well as the laws of the state of incorporation applicable to the company. For routine matters, we will vote in accordance with the recommendation of the company's management, directors, general partners, managing members or trustees, as applicable, unless, in our firm's opinion, such recommendation is not in the best interests of the investing client(s).

Non-routine matters involve a variety of issues and may be proposed by a company's management or beneficial owners, and may involve (i) a measurable change in the structure, management, control or operation of the company; (ii) a measurable change in the terms of, or fees or expenses associated with, an investment in the company; or (iii) a change that is inconsistent with industry standards and/or the laws of the state of incorporation applicable to the company. We have specific proxy voting policies for non-routine matters, and in some cases, our firm votes on a case-by-case basis.

**Abstaining from Voting or Affirmatively Not Voting.** Our firm will abstain from voting (which generally requires submission of a proxy voting card) or affirmatively decide not to vote if our firm determines that abstaining or not voting is in the best interests of the investing client(s). In making such a determination, we will consider various factors including, but not limited to, (i) the costs associated with exercising the proxy (e.g., translation or travel costs); and (ii) any legal restrictions on trading resulting from the exercise of a proxy. Furthermore, our firm will not abstain from voting or affirmatively decide not to vote merely to avoid a conflict of interest.

**Conflicts of Interest.** At times, conflicts may arise between the interests of the investing client(s), on the one hand, and the interests of our firm or its affiliates, on the other hand. If our firm determines that it has, or may be perceived to have, a conflict of interest when voting a proxy, our firm will address matters involving such conflicts of interest as follows:

- If a proposal is addressed by the specific policies in these procedures, our firm will vote in accordance with such policies.
- If our firm believes it is in the best interest of the investing client(s) to depart from the specific policies provided for in these procedures, our firm will be subject to the requirements of the third and fourth bullet points below, as applicable.
- If the proxy proposal is (i) not addressed by the specific policies, or (ii) requires a case-by-case determination by our firm, our firm may vote such proxy as it determines to be in the best interest of the investing client(s), without taking any action described in the fourth bullet point below, provided that such vote would be against our firm's own interest in the matter (i.e., against the perceived or actual conflict). Our firm will memorialize the rationale of such vote in writing.
- If the proxy proposal is (i) not addressed by the specific policies, or (ii) requires a case-by-case determination by our firm, and (iii) our firm believes it should vote in a way that may also benefit, or be perceived to benefit, its own interest, then our firm must take one of the following actions in voting such proxy:
  - Delegate the voting decision for such proxy proposal to an independent third party;
  - Delegate the voting decision to an independent committee of partners, members, directors or other representatives of the investing client, as applicable;
  - Inform the investing client (and investors in client fund and/or special purpose client fund if the client fund and/or special purpose client fund is the investing client) of the conflict of interest and obtain consent to (majority consent in the case of the client fund) vote the proxy as recommended by our firm; or
  - Obtain approval of the decision from the Chief Compliance Officer and third party legal advisors.

A complete copy of our firm's policies and procedures governing the voting of proxies, together with information regarding how our firm voted particular proxies, will be provided to clients and prospective clients upon request.

## **Item 18. Financial Information**

Our firm does not require, nor do we solicit, prepayment of more than \$1,200 in fees per client, six months or more in advance.

Item 18(B) is not applicable because our firm is in stable financial condition.

Venor Capital Management LP has never been the subject of a bankruptcy petition.