

# **WestRiver Management, LLC**

## **FORM ADV PART 2A**

### **BROCHURE**

**April 1, 2013**

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This brochure provides information about the qualifications and business practices of WestRiver Management, LLC. If you have any questions about the contents of this brochure, please contact us at (425) 576-9850. 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 WestRiver Management, LLC also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## II. MATERIAL CHANGES

This Item summarizes material changes to WestRiver Management, LLC's ("WRM" or the "Firm") Form ADV, Part 2A Brochure since its initial filing on April 6, 2012. Please see the specific sections referenced herein for additional information regarding these revisions.

### Item IV: Advisory Business

WRM has added disclosure regarding an additional subset of institutional investors to whom it provides investment advisory but not portfolio management services.

WRM has revised disclosure regarding TopGolf Partners, LLC, to eliminate language stating that the Firm may be deemed to have investment discretion. TopGolf Partners, LLC has established an investment committee that is required to approve all investment decisions. TopGolf Partners, LLC is now therefore deemed to be a non-discretionary client.

WRM has added disclosure regarding WRG (FCC), LLC, a new private fund.

### Item XI: Code of Ethics, Participation or Interest in Client Transactions, Personal Trading

WRM has added disclosure regarding an option it may exercise under certain conditions to acquire portfolio securities of WestRiver Capital, LLC, a private fund client, upon its dissolution.

WRM has added references stating that its Code of Ethics requires: the preclearance of transactions in privately offered securities and initial public offerings; and, the submission of annual and quarterly reports of personal securities transactions by Access Persons.

### Item XIII: Review of Accounts

WRM has added clarifying disclosure that investors in private equity funds for which it serves as investment manager will receive: (i) if not subject to audit - a quarterly account statement from each Fund's qualified custodian; and, (ii) if subject to annual audit - an audited financial statement within 120 days of such Fund's fiscal year-end

### Item XV: Custody

WRM has added disclosure stating that in circumstances where a private equity fund for which it serves as investment manager is subject to annual audit, it will ensure that audited financial statements are prepared in accordance with generally accepted accounting principles (by an independent public accountant that is registered with and subject to regular inspection by the Public Company Accounting Oversight Board) and distributed to all limited partners (or members or other beneficial owners) within 120 days of such Fund's fiscal year-end.

Item XVI: Investment Discretion

WRM has revised disclosure regarding TopGolf Partners, LLC, a private fund for which it no longer maintains investment discretion.

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## IV. ADVISORY BUSINESS

WestRiver Management, LLC ("WRM" or "Firm") provides investment advisory services to the private investment funds discussed below, as well as charitable organizations and endowments and unaffiliated investment managers.

WRM has been providing investment advisory services since 2002. The Firm is principally owned by Erik J. Anderson.

### A. *Advisory Services*

1. WRM provides investment advisory services and acts as the Managing Member of the private investment funds discussed below. There is no separate management company of the below funds. The private investment funds to which WRM provides advisory services are as follows (each a "Fund" or collectively "Funds"):

- WestRiver Capital, LLC ("WestRiver Capital")
- TopGolf Partners, LLC ("TopGolf")
- WestRiver Symform Partners, LLC ("WestRiver Symform")
- WestRiver 2tor Partners, LLC ("WestRiver 2tor")
- WestRiver Mezzanine Loans, LLC ("WestRiver Mezzanine")
- WRG (FCC), LLC ("WRG")

The investment objective of each Fund is to realize long-term compounded returns in excess of those available through conventional investments in the public equity markets.

Each of TopGolf, WestRiver Symform and WestRiver 2tor was organized for the purpose of making an equity investment in a specific privately held company: TopGolf International, Inc., in the case of TopGolf, Symform, Inc., in the case of WestRiver Symform, and 2tor, Inc., in the case of WestRiver 2tor. These three Funds will not make investments in any other entities.

WestRiver Capital and WRG were organized to make equity investments in privately held companies primarily in the United States. WestRiver Capital has also made loans to portfolio companies from time to time. WestRiver Capital's equity investments are typically structured as privately negotiated purchases of newly issued preferred stock, but may also include common stock and/or warrants. Loans are typically structured as convertible debt, but may also be structured as nonconvertible debt, either senior secured or subordinated. WestRiver Capital currently does not intend to make any additional new investments, and intends to liquidate its current portfolio in an orderly manner.

WestRiver Mezzanine was organized to take participation interests in loans extended primarily to privately held companies (and sometimes public companies) in the United States and, to a lesser extent, offshore, particularly in Western Europe and South America. The loans may be structured in a variety of ways, including senior secured loans, subordinated loans, and participations in third party originated loans. These

transactions may also include equity components, such as warrants to purchase stock of the borrowers.

All of the Funds are closed to new investors and none of the Funds has a formal private placement memorandum.

WRM serves as the managing member of each Fund listed above. Each Fund has an investment committee consisting of representatives of the investors in the Fund, and sometimes a representative of WRM. All decisions concerning approval of new investments, allocations of capital to specific investments, and dispositions of investment securities must be approved by majority vote of the investment committee. As a result, WRM does not exercise investment discretion, and does not have final approval, with respect to the selection of Fund investments, and does not determine the amount of each Fund's capital committed to each investment.

WRM will provide investment advisory and management services to each Fund pursuant to the terms of the Fund's operating agreement or through a separate management agreement. Such advisory and management services may include sourcing and recommending potential new investments to the investment committee of the respective Fund (if applicable), performing due diligence on investment opportunities, negotiating the terms of each investment, and advising on potential dispositions of Fund investments.

2. WRM also provides investment advisory services to a group of investors consisting of charitable organizations and endowments, as well as unaffiliated investment managers ("Investor Group"). Such advisory services include sourcing, due diligence and recommending potential new investments to the respective investment committees of each client in the Investor Group. Investment advisory services provided to the Investor Group do not include the management of assets. To the extent that one or more investment committees individually determine to participate in an investment recommended and presented to the Investor Group by WRM, each client would determine the amount of assets it would individually commit, if any, to a new private investment vehicle of the kind identified in paragraph 1 above. This new pooled investment vehicle would thereafter be managed by the Firm.

*B. Tailored Services*

Generally, WRM does not tailor advisory services to the individual needs of its clients. The investment committee of each of the above Funds and clients in the Investor Group exercises final approval over the selection of investments and determines the amount of capital committed to each investment.

*C. Wrap Fee Programs*

WRM does not provide portfolio management services to wrap fee programs.

*D. Management of Client Assets*

As of December 31, 2012, the following assets are under the Firm's supervision:

Discretionary Basis	\$0
Non-Discretionary Basis	\$233,022,849
Total Assets under Management	\$233,022,849

**V. FEES AND COMPENSATION***A. Management Fees*

Pursuant to the operating agreements of the Funds listed above, WRM offers investment advisory services and is compensated through management fees as described below:

Fixed Fee

WRM charges fixed investment management fees that are generally based on either a budget agreed to by the investment committee of the applicable fund or clients in the Investor Group or a percentage of the capital invested in the Fund by its investors. The fixed investment management fees are payable quarterly in advance. If the investment management agreement between the Firm and the client is terminated, the client will be responsible for paying a pro-rated fee for the quarter in which the account was terminated. If an agreement with a client that pays fees in advance is terminated, the Firm is not required to refund any portion of any prepaid fee.

Performance-Based Fees (Carried Interest Distributions)

WRM acts as the managing member of each of the Funds. The Firm is entitled to receive carried interest distributions from each Fund in accordance with the terms of the Fund's operating agreement. Typically the carried interest is structured as a right to receive a specified percentage of any additional distributions after the Fund's investors have received back their capital contributions plus a preferred return. In some contexts, after the investors have received their capital contributions and preferred return, the Firm may be entitled to catch-up distributions to commensurate with the preferred return paid to the investors. Following the catch-up (if applicable), any additional distributions are split between the investors, on the one hand, and WRM, on the other hand, in accordance with the carried interest percentage.

Alternative Fee Arrangements

WRM may, in its discretion, be willing to consider and negotiate fee arrangements that are different than those described above (e.g., basis points assessed on percentage of assets under management).

*B. Additional Fees and Expenses*

Unless otherwise agreed to with a client, WRM's fees do not include transaction charges (more information regarding the Firm's transaction practices can be found under the Section entitled "Brokerage Practices"), custodial fees, transfer taxes, exchange fees, interest charges, electronic fund and wire transfer fees, or any charges, taxes or other fees mandated by any federal, state or other applicable law or otherwise agreed to with the client. In addition, if WRM acquires a mutual fund, pooled fund or similar investment vehicle for a client account, the client will be responsible for the fees and expenses charged by the underlying fund.

In addition to the management fees described above, the individual Funds are responsible for a number of expenses that are incurred by or on behalf of the Fund. Below is a list of general expenses and fees that could be expected to be incurred by a Fund:

- Fees and expenses associated with the organization of the Fund and the offer/sale of interests
- Costs of selecting, acquiring, holding, monitoring and disposing of investments
- All expenses relating to litigation and threatened litigation involving the Fund
- Legal, auditing, tax and accounting services, brokerage, travel, marketing and other fees, commissions and expenses incurred by the Fund
- Taxes, insurance, and any costs incurred from dissolving and liquidating the Fund
- The above list is not all-encompassing and only provides a sampling of the fees and expenses that may be incurred in running an investment Fund. For more information, please refer to each Fund's operating agreement.

*C. Compensation for Sale of Securities or Other Investment Products*

Neither WRM nor any of its supervised persons accepts compensation for the sale of securities or other investment products.

## **VI. PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

As described in Section V. above, in addition to the fixed management fees, the Firm is entitled to receive carried interest distributions from each Fund in accordance with the terms of the Fund's operating agreement. Typically the carried interest is structured as a right to receive a specified percentage of any additional distributions after the Fund's investors have received back their capital contributions plus a preferred return. In some contexts, after the investors have received their capital contributions and preferred return, the Firm may be entitled to catch-up distributions to commensurate with the preferred return paid to the investors. Following the catch-up (if applicable), any additional distributions are split between the investors, on the one hand, and WRM, on the other hand, in accordance with the carried interest percentage.

Conflicts of interest may exist where an adviser and its related persons manage more than one private investment fund. The Firm or a related person may give advice to a fund which differs from the advice given to another fund, even though the funds' investment objectives may be the same or similar. Conflicts of interest also may exist in the allocation of an investment



opportunity among the funds for which WRM serves as the adviser. In addition, conflicts of interest may occur as to the allocation of the Firm's time among the various Funds. Potential conflicts of interest are expected to be limited because the Funds have different investment objectives.

Because of differing objectives or other factors, the members, managers, employees, and related persons of the Firm and the Funds it manages may take investment positions in securities that are different from, or opposite to, the positions taken by a Fund. Generally, WRM, its members, managers, employees, or related persons, if any, may become aware of, and participate in, business opportunities in which a client and/or Fund will not be given an opportunity to participate, even if such opportunity is of a character that, if presented to the client and/or Fund, could be taken by the client and/or Fund.

The Firm has adopted a Code of Ethics that sets forth standards of ethical conduct and requires compliance with federal securities laws. The code of ethics generally requires designated personnel to preclear initial public offerings and other offerings of limited availability, and to report personal securities holdings and transactions. See section XI. Code of Ethics, Participation or Interest in Client Transactions and Personal Trading. WRM has also adopted an insider trading policy that restricts the use and communication of material nonpublic information.

## VII. TYPES OF CLIENTS

WRM provides investment advisory services to the private investment Funds and clients in the Investor Group discussed above in Item IV.A. - Advisory Services. WRM does not have a specific minimum account size and none of these Funds requires its investors to make a specified minimum investment. The terms and amount of each investment in each of the Funds are privately negotiated. All five of the Funds are currently closed to new investors. Fund Investors may include pension and other funds subject to the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). Each Fund may require certain customary representations or assurances from Benefit Plan Investors (as defined in 29 C.F.R. §251.0.3-1 01) to determine the fund's compliance with legal provisions applicable to them.

## VIII. METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS

### A. *Methods of Analysis & Investment Strategies*

The Firm, as the managing member of each of the private investment Funds, developed unique investing strategies to identify potential investment opportunities. Refer below for a discussion of each Fund's strategy. As previously mentioned, all five Funds are currently closed to new investors.

#### *WestRiver Capital*

WestRiver Capital intends for substantially all investments to be in private, venture capital-type investments, including seed, start-up and other early-stage venture capital,

later-stage venture capital, expansion capital, and technology-related growth capital investments.

TopGolf

TopGolf was organized solely for the purpose of making an equity investment in TopGolf International, Inc. and does not currently intend to make any other investments.

WestRiver Symform

WestRiver Symform was organized solely for the purpose of making an equity investment in Symform, Inc. and does not currently intend to make any other investments.

WestRiver 2tor

WestRiver 2tor was organized solely for the purpose of making an equity investment in 2tor, Inc. and does not currently intend to make any other investments.

WestRiver Mezzanine

WestRiver Mezzanine intends for substantially all of its capital allocations to be in the form of loans or other extensions of credit to privately held companies, and potentially public companies as well. These loans will most often be structured as participations in subordinated debt facilities originated by a third party lender and may include equity features such as warrants to purchase stock of the borrowers.

WRG

WRG intends for substantially all investments to be in private, venture capital-type investments, including seed, start-up and other early-stage venture capital, later-stage venture capital, expansion capital, and technology-related growth capital investments.

As noted above, WRM will not exercise final approval with respect to the selection of investments and capital allocations. Such approval will be vested in the investment committee of each Fund. The Firm will conduct due diligence to screen potential investments, negotiate the terms of each investment, and make recommendations to the applicable Fund investment committee on investment decisions. Each investment prospect will be selected based on the Firm's judgment and investment experience.

Each Fund may, from time to time, invest cash on hand in short-term money market instruments, U.S. Treasury obligations, bank certificates of deposit, and other instruments having short maturities or call features until such time or times when capital contributions are needed to fund a Fund's unpaid committed capital contributions to any portfolio investment or to pay Fund expenses (including management fees).

*B. Risk Factors*

Potential investors should be aware that an investment in any of the Funds managed by WRM involves a significant degree of risk. There can be no assurance that the Funds' investment objectives will be achieved, or that an investor will receive a return of capital. Risks associated with an investment in the Funds include, but are not limited to, the following, and should be carefully evaluated before making an investment in the Funds in which the Firm acts as the managing member.

*General*

The private equity class of investments, including investments in venture capital funds, is high-risk and subject to loss, including the loss of part or all of an investor's investment in the Funds. The success of private equity investment vehicles in general is subject to risks related to: (1) the quality of the management of the respective portfolio companies; (2) the ability of the management of the portfolio companies to execute and grow their businesses; (3) general economic conditions; and (4) the ability of the portfolio companies to achieve liquidity for the Fund's investment. There is no assurance that the investments made by the Funds will be profitable or that distributions will be made to the investors. Any return on investment to the investors will depend upon successful investments being made by the Funds.

*Suitability of Investors*

An investment in the Funds is suitable only for sophisticated investors with substantial other assets who are capable of making an informed independent decision as to the risks involved in an investment in the Funds. Because of the risks involved, the lack of a public market for the interests and restrictions on transfer of interests, an investment in the Funds is only suitable for sophisticated investors who are willing to hold their interests for the term of the Funds and who understand that they may lose all or a significant portion of their invested capital. WRM expects the Funds to hold their investments for a number of years. In addition, in some cases the Funds may be prohibited by contract or applicable laws from selling certain securities for a period of time.

*Highly Competitive Market for Investment Opportunities*

The activity of identifying, completing and realizing private equity investments is highly competitive and involves a high degree of uncertainty. The Funds will be competing for investments with other private equity investment vehicles, as well as individuals, financial institutions and other institutional investors. Further, over the past several years, an ever-increasing number of private equity investment vehicles, including those that invest in other investment vehicles, have been formed (and many such existing investment vehicles have grown in size). Additional investment vehicles with similar investment objectives may be formed in the future by other unrelated parties. No assurance can be given that the Funds will be able to identify investment opportunities that satisfy the Funds' investment objectives and desired diversification

goals or, if the Funds are successful in identifying such investment opportunities, that the Funds will be permitted to invest, or invest in the amounts desired, in such opportunities.

### Taxation Risks

Certain risks relating to tax matters are discussed herein which prospective investors should read carefully.

The Firm endeavors to structure the Funds' investments in a manner that is intended to achieve the Funds' investment objectives and, notwithstanding anything contained herein to the contrary, there can be no assurance that the structure of any investment will be tax efficient for any particular investor or that any particular tax result will be achieved. In addition, tax reporting requirements may be imposed on investors under the laws of the jurisdictions in which investors are liable to taxation or in which the Funds make portfolio investments. Furthermore, the Funds' returns in respect of their investments may be reduced by withholding or other taxes imposed by jurisdictions in which the Funds' portfolio companies are organized. Finally, the tax rules, or their interpretation in relation to an investment in the Funds, may change during the life of the Funds.

Prospective investors should consult their own professional tax advisors with respect to the tax consequences to them of an investment in the Funds in light of their particular tax situations.

### Changes

Changes in legal, fiscal and regulatory regimes may occur during the life of the Funds which may have an adverse effect on them or the portfolio investments. Changes in economic conditions may occur during the life of the Funds that may have an adverse effect on their investments, such as rising interest rates, downturns in the economy or deteriorations in the condition of the industry sector in which a portfolio investment operates or invests.

### Illiquidity of the Investments by the Fund

A limited market exists for the sale of the Funds' investments in portfolio companies and the transferability of such investments is generally restricted. There are no assurances that the Funds will be able to liquidate a particular interest in a portfolio company at the time and upon the terms they desire.

### Lack of Liquidity of the Interests in the Funds

Prospective investors should be aware of the long-term nature of their investment in the Funds. There is not now and likely will not be a public market for the interests. The interests may not be assigned, transferred or encumbered without the prior written permission of WRM. Accordingly, an investor may not be able to liquidate their

investment and must be prepared to bear the risks of owning their interest for an extended period of time. The interests are not likely to be registered under the securities laws of the country, state or jurisdiction of residence of any investor.

#### Dependence on Senior Professionals

The Funds will be managed by WRM, and accordingly will be dependent on the personnel of the Firm (particularly Erik Anderson) for investment sourcing, management, analysis, and administrative services. The loss of Mr. Anderson or other WRM personnel could have a significant adverse impact on the ability of the Firm to perform its duties as the Managing Member of the Funds. Investors must rely on the ability of WRM to source appropriate investments. With respect to investments that are approved by the Fund's investment committee, the investors are dependent on the Firm to manage the investment execution appropriately. Accordingly, no person should purchase an interest in any Fund unless such person is willing to rely on the Firm for the above matters and day to day responsibilities associated with managing the Fund's investment portfolio.

#### Difficulty of Locating Suitable Investments

The Funds may be unable to find a sufficient number of attractive opportunities to meet their investment objectives. The investment performance of prior Funds managed by the Firm cannot be relied on as an indicator of the Funds' future performance or success.

#### Penalty for Failure to Make Capital Contributions

Upon failure to make any installment payment of its capital commitment, an investor's interest will be subject to substantial or total reduction.

#### Establishment of Additional Funds

WRM and its related persons may organize a new fund substantially similar to the Funds. Any such new fund may be interested in the same investment opportunities as the Funds. There is no assurance that investors in the Funds will be offered the opportunity to participate in any subsequent funds.

#### Value of Investment

The value of an investment in the Funds may fluctuate. An investor's capital commitment will be allocated to investments over a fixed period of time specified in the Fund operating agreement. Historically, private equity returns have varied greatly over time, depending on the conditions at the time investments were made and when investments were exited by the partnerships. No assurance can be given that the Funds will return to investors all or any part of their contributed capital commitment.

### Indemnification Obligations of the Fund

The governing documents of each portfolio company are expected to include provisions which would require the company to indemnify its directors and officers (and certain other related or affiliated parties), if any, and their affiliates, and their respective directors, officers, employees, managers, partners, members, stockholders and agents, for certain claims, losses, damages and expenses arising out of their activities on behalf of such portfolio company or such other related or affiliated parties. Such indemnification obligations could decrease the returns to investors in such portfolio companies and, consequently, to investors in the Funds.

Similarly, to the extent permitted by applicable law, the Funds will indemnify the Registrant, its members and partners and their related affiliated parties for certain claims, losses, damages and expenses arising out of their activities on behalf of the Funds, and to the extent the Funds' assets are insufficient to satisfy such indemnification obligations, the investors will be liable therefore to the extent of their remaining unpaid capital commitments and any distributions previously made to them by the Funds.

### Contingent Liabilities

The Limited Liability Company Agreement of each Fund authorizes WRM to establish such reserves for unknown or contingent liabilities as the Firm in its sole discretion deems advisable. WRM may withhold a portion of any distribution to an investor in order to discharge such investor's pro rata share of liabilities of the Funds. In addition, an investor could be required to return amounts previously distributed to such investor to cover such investor's pro rata share of liabilities.

### Certain Risks with Respect to Performance Allocations

WRM will receive compensation based on appreciation in certain assets of the Funds. Such compensation arrangements may create an incentive for the Firm to make investments that are riskier or more speculative than would be the case absent such compensation arrangements.

### Risks of Leverage

One or more of the portfolio companies may use leverage. Debt carries incremental risk. Debt service requirements may deplete cash flow and inhibit the ability of such companies to expand. In the event that a leveraged portfolio company is unable to meet its debt service obligations, there likely will be a material adverse effect upon the performance of the investment related to such company. In addition, the Funds may borrow for the purpose of short-term financing to cover shortfalls of capital contributions arising from defaulting investors or for other purposes related to the Funds' business. This leverage would be in addition to the leverage described above. Tax-exempt investors should note that the use of leverage by the Funds may create "unrelated business taxable income."

### Expedited Transactions

WRM may be required to make investment decisions on an expedited basis in order to take advantage of certain investment opportunities for the Funds. In such cases, the Firm may not have access to detailed information regarding a portfolio investment at the time the investment decision is made. Therefore, no assurance can be given that WRM will have knowledge of all factors that may adversely affect a portfolio investment.

### Funds May Make Illiquid In-Kind Distributions

Certain investments may not be ready for harvesting at the end of the Funds' term, even if extended as permitted by the Funds' organizational documents. At such time as a Fund is terminated, there may be in-kind distributions by the Fund of interests in such investments and distributions of such investments by the Funds to the investors, all of which are likely to be illiquid. There can be no assurance that any investors would be able to dispose of such investments or that the value of such investments as determined by WRM in connection with the determination of distributions and the calculation of the carried interest will ultimately be realized.

### Securities Law Matters

The interests are not and will not be registered under the Securities Act, or any other securities laws, including state securities or blue-sky laws. The interests will only be offered and sold to "accredited investors" as defined in Rule 501 of Regulation D promulgated under the Securities Act. Such interests will be offered without registration in reliance upon the Securities Act exemption for transactions not involving a public offering. Investors will be required to make certain representations to the Funds, including that they are acquiring interests in the Funds for their own account, for investment purposes only and not with a view to their distribution.

### Investment Company Act Considerations

The Funds are not registered under the Investment Company Act of 1940, as amended (the "Investment Company Act"). Therefore, investors in the Funds are not afforded the protection provided by the Investment Company Act and the extensive regulations there under.

### Confidential Information

The operating agreements of the Funds will contain confidentiality provisions intended to protect proprietary and other information relating to the Funds and their investments. To the extent that such information is publicly disclosed, competitors of the Funds and/or their portfolio investments, and others, may benefit from such information, thereby adversely affecting the Funds, their portfolio investments, WRM, and the economic interests of the investors. In addition, the governing agreements of each of the portfolio companies will likely contain confidentiality provisions intended to

protect proprietary and other information relating to the portfolio company. Pursuant to such provisions, the portfolio companies may have the ability to limit the Funds' ability to disclose proprietary and other information to the Funds' investors and, in certain circumstances, may also have the ability to withhold making any disclosures of information to the Funds. Consequently, the investors in the Funds and, in certain circumstances, the Firm will be limited in their ability to monitor the investments in the portfolio companies.

#### Portfolio Company Risks

The portfolio companies in which the Funds will invest may involve a high degree of business or financial risk. The portfolio companies may be start ups or in an early stage of development, may be distressed or have operating losses or significant variations in operating results and may be engaged in a rapidly changing business with products subject to a substantial risk of obsolescence. The portfolio companies may also include companies that are experiencing or are expected to experience financial difficulties, which may never be overcome. In addition, they may require substantial additional capital to support their operations, to finance expansion or to maintain their competitive position, or may otherwise have a weak financial condition. Portfolio companies may face intense competition, including competition from companies with greater financial resources, more extensive development, manufacturing, marketing and other capabilities and a larger number of qualified managerial and technical personnel.

#### Annual Tax Information

In order for the Funds to provide annual tax information to their investors, they must first receive tax information from the portfolio companies. If the receipt of such information is delayed, the Funds may not be able to provide such tax information to the investors to allow them to timely file their tax returns. As a result, investors may be required to obtain extensions for their tax returns each year.

#### Risk upon Disposition of Investments

In connection with the disposition of a portfolio company, a Fund may be required to make representations about the business and financial affairs of such portfolio company typical of those made in connection with the sale of any business, or may be responsible for the contents of disclosure documents under applicable securities laws. Such Fund may also be required to indemnify the purchasers of such portfolio company or underwriters to the extent that any such representations or disclosure statements turn out to be incorrect, inaccurate or misleading. These arrangements may result in a Fund requiring the investors to return distributions previously made to them from the Funds.

#### Absence of Effective Remedies against the Firm

There can be no assurance that adequate remedies will be available to any investor if the Firm fails to perform its duties and the Funds operating agreements do not afford investors rights to remove WRM. The Funds operating agreements include provisions



for exculpation and indemnification of the Firm and its respective partners, members, managers, officers, directors, shareholders, employees and affiliates.

*Risks Associated with Non-U.S. Investments*

The Funds may invest in companies organized outside of the U.S. Non-U.S. securities involve certain risk factors not typically associated with investing in U.S. securities, including risks relating to: (1) differences between the U.S. and foreign securities markets, including greater price volatility in and less liquidity of some foreign securities markets, the absence of uniform accounting, auditing and financial reporting standards, practices and disclosure requirements and less government supervision and regulation; (2) certain economic, social and political risks, including potential exchange control regulations and restrictions on foreign investment and repatriation of capital, the risks of political, economic or social instability and the possibility of expropriation or confiscatory taxation; (3) the possible imposition of foreign taxes on income and gains recognized with respect to such securities; and (4) the impact of changes in the value of foreign currencies relative to the U.S. dollar and other currencies.

*Lack of Separate Legal Counsel*

Perkins Coie LLP ("Perkins Coie") serves as legal counsel to WRM, the Funds and certain of their affiliates. Perkins Coie does not represent any investor in any of the funds by virtue of such investment. Although Perkins Coie assisted in the preparation of this brochure and may from time to time advise WRM, the Funds and certain of their affiliates with respect to their respective obligations to the Funds, Perkins Coie has not independently verified any factual assertions made in this brochure and is not responsible for either the Funds' compliance with its investment program or with applicable laws and regulations. No person should invest in the Funds as a result of Perkins Coie's participation in the preparation of this brochure or its representation of WRM, the Funds and certain of their affiliates. WRM and Perkins Coie urge each prospective investor in any of the Funds to consult with his, her or its own legal, accounting, business, investment, pension and tax advisors to determine the appropriateness and consequences of an investment in the Funds and arrive at an independent evaluation of the merits of such investment.

C. *Recommending Specific Security-Types*

As part of its role as managing member of the Funds, WRM does not recommend specific types of securities to individual investors in the Funds. Each Fund has an investment committee consisting of representatives of the investors in the Fund, and sometimes a representative of the WRM. All decisions concerning approval of new investments, allocations of capital to specific investments, and dispositions of investment securities must be approved by majority vote of the investment committee. As a result, the Firm does not exercise investment discretion, and does not have final approval, with respect to the selection of Fund investments, and does not determine the amount of each Fund's capital committed to each investment.

## **IX. DISCIPLINARY INFORMATION**

Neither WRM, nor any management person, has legal or disciplinary events (i.e., criminal or civil action in domestic, foreign or military court, administrative proceeding before the SEC, any other federal regulatory agency, any state regulatory agency, or self-regulatory organization) that are material to evaluating the Firm's advisory business or its integrity.

## **X. OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

WRM has no other financial industry activities or affiliations.

WRM is the general partner or managing member of the Funds, which are closed to new investors. As part of its advisory activities, WRM is not compensated for nor does it recommend or select other investment advisers.

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

### *A. Code of Ethics*

WRM has adopted a Code of Ethics that sets forth standards of ethical conduct and requires compliance with federal securities laws. The Code of Ethics requires generally that designated personnel preclear initial public offerings, secondary offerings and private placements, and to report personal securities holdings and transactions. The Firm has also adopted an insider trading policy that restricts the use and communication of material nonpublic information. The Firm will provide a copy of the Code of Ethics (and insider trading policy) to clients and prospective clients upon request. Requests should be directed to: Chief Compliance Officer, WestRiver Management, LLC, 3720 Carillon Point, Kirkland, WA 98033.

Related Persons of the Firm (i.e., officers and other employees, if any) may periodically buy or sell securities for their own accounts that are also purchased and/or sold for the accounts of the firm's clients. This has the potential to create a conflict of interest between these Related Persons of WRM and clients. In order to address this potential conflict of interest, the Firm's Code of Ethics establishes policies and procedures relating to trading by WRM and its Related Persons (i.e., Management Persons and other employees, if any). The Code of Ethics is based on the principle that the Firm's Related Persons (i.e., Management Persons and other employees, if any) owe a fiduciary duty to clients and must avoid activities, interests and relationships that might interfere with making decisions in the best interests of any client. Among other things, the Firm's Code of Ethics generally requires that Related Persons (i.e., Management Persons and employees, if any):

- are prohibited from trading, either personally or on behalf of others, in securities while in possession of material non-public information regarding these securities or communicating material non-public information to others.
- are required to preclear securities transactions involving initial public offerings, secondary offerings, private placements and capital commitments.

- are required to place the interest of clients above the interests of the Firm or other employees whenever a conflict may be present.
- are required to certify annually that they have complied with the Firm's Code of Ethics.
- may not give or accept gifts or entertainment that are inappropriate or could be seen as overly generous or which could influence Employee decision-making.
- that become aware of any violation of the Code of Ethics are required to report such violation to the Chief Compliance Officer and have it logged by the Firm.

*B. Conflicts of Interest*

Due to the nature of its business activities, WRM and its related persons may experience times where a conflict of interest might arise between certain parties. Refer to the descriptions below where possible conflicts of interest are identified and the course of action the Firm takes to mitigate these conflicts is explained.

*Other Business Activities*

The Firm and its Managing Persons are required to devote as much of their time to the business of the Funds as is reasonably required in their sole and absolute discretion. WRM and its affiliates may engage or have an interest in any other business venture or activity of any kind, even if such venture or activity is competitive with the business of a Fund. The Firm generally has no obligation or responsibility to disclose or refer any particular investment or other opportunity of any kind whatsoever to a Fund, even if such opportunity is of a character that, if presented to a Fund, could be taken by the Fund.

*Outside Investment Opportunities*

Employees of the Firm may invest for their own personal accounts in the same areas of investment opportunity as those in which the Funds may invest. Because of differing objectives or other factors, the employees and clients of the Firm and its affiliates may take investment positions in securities that are different from, or opposite to, the positions taken by the Funds. Moreover, WRM, or its affiliates, may become aware of, and participate in, business opportunities in which the Funds will not be given an opportunity to participate.

*Managing Multiple Investment Funds*

Conflicts of interest may exist where an adviser and its affiliates manage more than one private investment fund. The Firm or an affiliate may give advice to a Fund which differs from the advice given to another Fund, even though the Funds' investment objectives may be the same or similar. Potential conflicts of interest are expected to be limited because the funds have different investment objectives.

*Interaction between Managed Funds*

Funds managed by WRM may invest in some of the same companies.

### Fundraising Assistance

The Firm and/or the Fund(s) may enter into arrangements with SEC-registered broker-dealers pursuant to which the broker-dealers will provide the Fund(s) with fundraising assistance for a fee. These fundraising activities will be conducted in accordance with applicable rules and regulations.

### Managing Member Capital Commitment

The Firm has a deemed capital contribution in WestRiver Capital equal to \$1,250,000. In addition, the Firm may from time to time make capital commitments to Funds on terms to be negotiated with the investment committee for the Fund and may co-invest in Fund portfolio investments. As a result, the Firm will co-invest with the Funds' investors.

### Carried Interest Distribution

The existence of the carried interest paid to WRM may create incentives for the Firm to invest in more speculative or risky investments than it would otherwise make or allocate in the absence of such arrangements.

### Right of Acquisition of Securities Upon Dissolution of WestRiver Capital

Pursuant to the terms of the Third Amended and Restated Limited Liability Agreement for WestRiver Capital (the "Fund"), upon its dissolution and until its termination, if the Fund receives a bona fide offer to purchase portfolio securities from an independent third party, and the Investment Committee of the Fund desires to accept such offer but WestRiver Management (the "Managing Member" of the Fund) desires to reject such offer, then the Managing Member shall have the right to purchase such portfolio securities for cash at a purchase price equal to the valuation set forth in the bona fide offer. If the Managing Member declines to exercise this right, then the Fund shall sell such portfolio securities to the independent third party who submitted the bona fide offer. If the Managing Member exercises its right, then the purchase of such portfolio securities shall close within 90 days following the delivery of the bona fide offer. In addition to the receipt of customary and reasonable representations and warranties from the Fund with respect to the Fund's title to the securities, its power and authority to sell and transfer the securities, and similar matters, the Managing Member shall also be entitled to receive an assignment from the Fund of all of the Fund's contractual rights with respect to such securities (e.g., voting rights, information rights, preemptive rights, etc.), to the greatest extent permitted under the applicable agreements. Promptly following the closing of any sale of such securities pursuant to this provision, the Fund shall distribute to its members the net sale proceeds from the sale of such securities.

## **XII. BROKERAGE PRACTICES**

WRM is responsible for the day-to-day management of each fund. The Firm therefore has the authority to select brokers or dealers to be used and commission rates paid, where applicable. In selecting brokers to execute transactions, the Firm generally will seek to obtain the best price

and execution for transactions. WRM takes into account factors such as price, size of order, difficulty of execution and operational facilities of a brokerage firm. Additional considerations are given to the scope and quality of brokerage services provided, and the Firm's risk in positioning a block of securities. Subject to the Firm's duty to obtain best execution, WRM may execute transactions through brokers that provide the fund(s) with fundraising assistance. See Item XI for a description of these fundraising arrangements, if any.

WRM may receive research from a number of broker-dealers which may include, among other things, market data, technical analysis, and economic commentary. This research is in each case provided to WRM because of personal relationships of the Firm's principal with persons at the broker-dealers and is not the result of soft dollar arrangements or any other arrangements with the broker-dealers. The research that the Firm obtains may be used to service, support, and advise all of its client accounts. WRM will continue to receive the free research regardless of whether the Firm chooses to execute client transactions with any of the broker-dealers providing the research. The value of research received by the WRM is not considered when selecting brokers for execution of transactions in client accounts, but nevertheless could be perceived to create the potential for a conflict of interest under certain circumstances.

WRM does not consider client referrals from a broker-dealer or third parties when selecting broker-dealers.

### **XIII. REVIEW OF ACCOUNTS**

WRM generally reviews all client accounts monthly and distributes client investment reports quarterly. In addition, the firm endeavors to communicate with clients on a periodic basis to provide a detailed review of their accounts.

#### *Review of Accounts*

WRM's managing member reviews all accounts monthly or more frequently as deemed appropriate. This review includes, among other things, analyzing portfolio investments in light of each Fund's investment objectives, and recommending changes to each portfolio as deemed appropriate.

#### *Reporting to the Funds*

Each of the Funds maintains an investment committee that consists of representatives of the investors in the Fund. Each investment committee has the responsibility to (1) approve new investments, (2) determine the amount of each fund's capital allocation to such investment, and (3) approve the disposition of investment securities. Each Funds' investment committee reviews and monitors investments on a periodic basis.

Members of the Funds will receive semiannual unaudited reports on the results of a fund's investments, as well as all necessary tax reporting information (based upon reports). Investors in non-audited funds will also receive a quarterly account statement from each Fund's qualified custodian. Investors in a Fund subject to annual audit will

receive audited financial statement within 120 days of such Fund's fiscal year-end (see Section XV. Custody below).

#### **XIV. CLIENT REFERRALS AND OTHER COMPENSATION**

WRM does not compensate third parties for client referrals. Neither WRM nor any related person has any arrangement where it receives a payment or other economic benefit from a non-client in connection with giving advice to clients.

#### **XV. CUSTODY**

WRM is not a custodian and its practice is not to have physical custody of client assets. Notwithstanding the foregoing, the Firm recognizes that it may be deemed to have custody under certain circumstances. In circumstances where WRM may be deemed to have custody, it will comply with the requirements of Rule 206(4)-2 under the Investment Advisers Act of 1940, which requires, among other things, that a qualified custodian (for example, a bank or broker-dealer) maintain all client funds and securities. For example, WRM also serves as general partner or managing member for the Funds. In situations where a Fund is not subject to annual audit, the Firm will use its reasonable best efforts to ensure that qualified custodians send account statements to all clients, including each limited partner or member of a limited partnership or limited liability company, at least quarterly. In circumstances where a Fund is subject to annual audit, WRM will ensure that audited financial statements are prepared in accordance with generally accepted accounting principles (by an independent public accountant that is registered with and subject to regular inspection by the Public Company Accounting Oversight Board) and distributed to all limited partners (or members or other beneficial owners) within 120 days of such Fund's fiscal year-end. Clients should carefully review all account statements received from qualified custodians.

WRM urges clients to compare the reports from the Firm with the statements received from qualified custodians. In accordance with the SEC's custody rule, certain accounts over which the Firm has custody are subject to an annual surprise examination.

#### **XVI. INVESTMENT DISCRETION**

The Firm serves as the Managing Member of each Fund. The Funds each have their own investment committee consisting of representatives of the investors in the Fund, and sometimes a representative of WRM. All decisions concerning approval of new investments, allocations of capital to specific investments, and dispositions of investment securities must be approved by majority vote of the investment committee. As a result, the Firm does not exercise investment discretion, and does not have final approval, with respect to the selection of Fund investments, and does not determine the amount of each Fund's capital committed to each investment.

#### **XVII. VOTING CLIENT SECURITIES**

Unless reserved by a client, the Firm is responsible for voting proxies in a timely manner and for the exclusive purpose of providing benefits to the applicable fund(s). In this regard, WRM

generally will, consistent with its fiduciary role, seek to enhance the value of the affected funds' portfolio by voting each company proxy in a manner that is designed to maximize the company's stock price. However, WRM may refrain from voting in certain circumstances. For instance the Firm may refrain from voting a proxy if it concludes the potential impact on shareholders' interests is insignificant while the cost associated with analyzing and voting the proxy may be significant.

As a general proposition, the Firm supports proposals that (i) preserve and expand the power of shareholders in areas of corporate governance and (ii) allow responsible management teams to run their company in the way that is most likely to maximize value for owners. A copy of WRM's proxy voting policies and procedures, as well as information with respect to how the firm voted specific proxies, is available upon request. Such request can be made by mail directed to the attention of Chief Compliance Officer, WestRiver Management, LLC, 3720 Carillon Point, Kirkland, WA 98033 or by telephone at 425-576-9850.

## **XVIII. FINANCIAL INFORMATION**

The Firm does not require or solicit prepayment of more than \$1,200 in fees from any client, six months or more in advance. WRM is not a custodian but recognizes that it may be deemed to have custody under Investment Advisors Act of 1940 under certain circumstances. The Firm is unaware of any financial condition that is reasonably likely to impair its ability to meet its contractual commitments to clients.