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PART 2A OF FORM ADV: FIRM BROCHURE

**ARENA INVESTORS, LP**

A Delaware Limited Partnership registered with the U.S. Securities and Exchange Commission as an Investment Adviser

March 31st, 2017

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This brochure provides information about the qualifications and business practices of ARENA INVESTORS, LP ("Arena"). If you have any questions about the contents of this brochure, please contact us at (212) 612-3205. The information in this brochure has not been approved or verified by the U.S. Securities and Exchange Commission (the "SEC") or by any state securities authority.

Additional information about ARENA INVESTORS, LP is also available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

ARENA INVESTORS, LP is registered with the SEC as an investment adviser. Registration with the SEC or with any state securities authority does not imply a certain level of skill or training.

## **ITEM 2. MATERIAL CHANGES**

Arena revised this brochure on March 30<sup>th</sup>, 2017 to reflect the following changes, which are discussed further herein:

Item 10: Other Financial Industry Activities and Affiliations: Arena Financial Services, LLC began operations as a registered broker-dealer and member of FINRA on October 12<sup>th</sup>, 2016, and is an affiliate of Arena.

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#### ITEM 4. ADVISORY BUSINESS

Arena was created to establish a multi-strategy asset management business that seeks to create risk-adjusted returns for its clients across a wide variety of fundamentals-based, asset-oriented, credit-focused investment opportunities.

The senior management team of Arena is led by CEO and CIO Daniel Zwirn.

The Westaim Corporation, a Canadian corporation, owns Arena through indirect holding companies (collectively, The Westaim Corporation and its holding companies are referred to herein as “Westaim”); Westaim’s direct owner of Arena is Westaim Arena Holdings II, LLC. Additionally, Mr. Zwirn through his ownership of Barnard Partners (“BernardCo”) has certain economic rights with respect to Arena and controls the day-to-day management and investment activities of Arena. Although BernardCo will not own any equity in Arena until Arena’s assets reach a certain threshold, BernardCo may eventually earn a majority equity interest in Arena, after which Westaim may retain certain veto rights over extraordinary actions designed to protect Westaim’s economic interests in Arena. Arena does not anticipate that the change in equity ownership will have any effect on the day-to-day management or investment decision-making of Arena, which is expected to remain with BernardCo. Fund investors will be required to consent in advance to such change of ownership in their subscription documentation. In addition, or alternatively, to the extent any such change in the equity ownership of Arena represents an “assignment” or change of control within the meaning of the Investment Advisers Act of 1940, as amended (the “Advisers Act”), an Other Committee (as defined below), or an independent representative with relevant experience, may be asked to provide consent to such assignment or change of control on behalf of a fund and its investors; any such consent given will be binding on the fund and its investors. Separately managed account clients may be required to consent in advance to such change of ownership in their investment management agreement (“IMA”).

The descriptions of funds and accounts managed by Arena set forth in this brochure, including the types of investments made and strategies used, fees and expenses charged, risk factors and conflicts of interests that may arise in Arena’s management of such funds and accounts, are qualified in the formal offering materials (e.g., the offering memoranda, memorandum and articles of association, limited partnership agreement, as the case may be, and subscription documents) provided to investors in the funds which Arena manages (collectively referred to herein as the “Offering Documents”) or IMA, as pertinent.

### Arena Clients

Arena provides investment advisory services to pooled investment vehicles, or single investor managed accounts or funds, the investment strategies of which typically are expected to parallel all or a portion of the investment strategies of one of the other Arena clients and Arena proprietary accounts. As more fully described below, Arena's investment strategies include, but are not limited to: (i) corporate private credit, (ii) real estate and real estate-related credit assets, (iii) commercial and industrial assets, (iv) structured finance, (v) consumer assets and (vi) corporate and other securities.

Arena currently provides investment advisory services to a limited number of private fund clients and managed accounts.

### Assets Under Management

As of December 31<sup>st</sup>, 2016, Arena had approximately \$420,000,000 in regulatory assets under management (of which approximately \$45,000,000 of assets were non-discretionary).

## **ITEM 5. FEES AND COMPENSATION**

Arena's clients, and the investors in the funds that it advises, are generally qualified purchasers, as defined in Section 2(a)(51)(A) of the Investment Company Act of 1940 (the "Investment Company Act"). As such, a detailed client fee schedule is not included in this brochure. However, Arena's clients will pay some or all of the following fees to Arena:

- (i) An annual management fee, typically payable monthly in advance, that is generally equal to 2.0% of capital account balances or the net asset value of an account (a "Management Fee"); and
- (ii) A performance fee (or in the case of certain other clients, an "incentive allocation"; the phrase "Carry" is used throughout this Form to refer to both a performance fee or an incentive allocation) that is generally equal to 20% of the net capital appreciation of such client's account at the end of the relevant fiscal period (generally subject to a "high water mark" based on prior high net values and loss carryforward limitation); a Carry may be taken on assets that are set aside (the "Set Aside Carry") to be tracked separately in connection with a withdrawal (the "Set Aside Portion") and such Set Aside Carry will not be "netted" against the profits and losses associated with any amounts that are not being withdrawn.

Generally, fees are not negotiable; however, in certain cases, Arena may waive or reduce Management Fees and Carry for certain investors, including employees and affiliates. The Carry will be payable or allocable to the general partners of each of the funds that Arena advises (collectively, the "General Partners"), each an affiliate of Arena.

Arena and certain of its affiliates also charge fees that may approximate 50 bps (0.50%) per annum on the fair value of the illiquid portion of the loan portfolios managed by Arena in connection with the management and servicing of those assets. This fee is in addition to the Management Fee borne by the fund or client accounts and is used to offset the expense of engaging personnel and incurring other overhead costs to manage those loans in lieu of hiring an unaffiliated third-party loan servicer (please see Item 11 for information relating to conflicts of interest).

Affiliates of Arena may also charge other fees to cover services which are not included in the customary items covered by the Management Fee and which could be provided by unrelated third parties at fund or client account expense. Any such other fees will be comparable to fees that a qualified independent third-party service provider would have charged.

Arena may make investments on behalf of clients either directly or indirectly through investments in accounts, including private pooled investment funds (or other pooled investment vehicles), with other investment advisers, in which case the client will generally be subject to additional fees payable to such other investment adviser, as well as its proportionate share of costs and expenses. Arena also may place a portion of a client's investable assets in Arena-affiliated investment funds, in which case the client will not be subject to any additional Management Fee or Carry but will bear its proportionate share of costs and expenses.

Arena will deduct Management Fees from clients' assets, typically in advance, on a monthly or quarterly basis, depending on the client involved. As a result of limitations on withdrawals from a fund, Management Fees will in some cases have been earned at the time of withdrawal. In the unusual situation in which (i) an investor withdraws from a fund, (ii) the fund terminates its operations or (iii) a fund or Arena terminates the IMA between them, in each case prior to the end of a quarter or month, as applicable, the Management Fee for the quarter or month in question will be prorated for the number of days that, as applicable, (i) the investor held an interest in the fund, (ii) the fund was in operation or (iii) the investment management agreement was effective, and any unearned portion of the Management Fee will be refunded, as applicable, to the fund and investor. More detailed information about specific fees and expenses is provided in the pertinent Offering Documents or IMA.

*Additional Fees and Expenses*

In addition to those fees described above, clients/investors will pay additional fees and expenses, such as the following non-exhaustive list of items:

- brokerage commissions
- expenses relating to short sales
- hedging expenses
- clearing and settlement charges
- custodial fees
- bank service fees
- administrative expenses
- valuation and appraisal expenses
- organizational and initial offering expenses
- ongoing offering and sale of fund interests (other than placement agent fees, if any)
- costs and expenses associated with processing withdrawal requests
- costs and expenses related to the segregation of assets in connection with the admission of investors in a fund and/or the determination of a set aside portion
- costs and expenses associated with the repurchase of any

assets comprising any such set aside portion

- costs of winding-up a fund
- interest expenses
- financing costs
- investment-related expenses, including travel (both private and commercial) and due diligence expenses
- professional fees relating to investments (including expenses of attorneys, consultants and experts)
- other costs, fees and expenses incurred in connection with the investigation, development, acquisition, consummation, ownership, maintenance, monitoring, hedging or disposition of investments; origination fees
- legal and compliance expenses, including costs of Form PF and the European Union's Alternative Investment Fund Managers Directive
- auditing and tax preparation expenses
- accounting and operations expenses (including the cost of accounting software packages)
- expenses related to or in connection with any governmental inquiry, investigation or proceeding

involving a fund client, including the amounts of any judgments, settlements or fines paid in connection therewith

- extraordinary expenses (including litigation, indemnification and contribution expenses)
- fund level taxes (including all federal, state and local taxes and filing fees or other governmental charges or duties and the costs of preparing K-1s)
- expenses related to unconsummated investments
- out-of-pocket expenses of asset management personnel
- third party administrator expenses
- insurance costs, including but not limited to both D&O and errors and omissions insurance
- fees and expenses of sub-advisers
- cost of software in connection with investments (including fees of third party software developers)
- costs of non-accounting software
- fees and reimbursable expenses to members of a fund's board of directors or advisory board
- expenses associated with advisory boards and meetings of investors



- expenses relating to quantitative analysis and software management services
- fees and expenses of servicers of specific assets owned by a client account
- costs of research, information systems, software and hardware
- costs of other service providers to the client accounts, including Arena's affiliate, Arena Management Co., LLC, in connection with its services to Arena in respect of a client account
- overhead expenses as specified in the constituent documents of the client
- professional fees relating to investments (including expenses of attorneys, consultants and experts)
- expenses associated with the distribution of reports to investors
- expenses of organizing blockers or special purpose vehicles
- costs of trade breaks
- costs of trade errors to the extent consistent with Arena's Trade Error Policy
- costs of other external services
- legal defense costs, including costs of judgments and settlements
- tax structuring costs
- costs of joint venture servicing
- risk management expenses
- costs of third parties that consider affiliated transactions (including the independent representative and any Other Committee) and determine whether to provide consent

To the extent that Arena and its affiliates perform all or a portion of certain of the services listed above, the costs of such services may be reimbursed by the client. To the extent that a third party performs such services and Arena incurs all or a portion of the corresponding expenses listed above, the costs of such expenses will be reimbursed by the client.

More detailed information about the types of fees and/or expenses that a particular client may pay in connection with the advisory services that Arena provides is contained in the relevant Offering Documents or IMA. In addition, please see Item 12 for further discussion of the brokerage and other transaction costs that clients pay.

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

As described in Item 5 above, clients generally pay both a Management Fee, which is generally equal to 2.0% per annum of the total capital account balances for the relevant client in advance on a monthly or quarterly basis, and Carry, which is generally equal to 20% of the net capital appreciation of such client's account at the end of the relevant fiscal period, generally subject to a "high-water mark;" provided that a Carry also may be taken on assets that are set aside in connection with a withdrawal and such Set Aside Carry will not be "netted" against the profits and losses associated with any amounts that are not being withdrawn.

Other clients (or investors in certain clients) may pay reduced or no Management Fee, Carry or Set Aside Carry. Managing assets for different clients with different fee structures, including ones that may allow for the possibility of earning Carry or Set Aside Carry at the same time as others that do not, can create a conflict of interest for Arena because such an arrangement creates an incentive to favor accounts for which Arena has the ability to earn Carry or Set Aside Carry. Such situations give rise to potential conflicts of interest including with respect to: (i) the allocation of investment opportunities and (ii) other types of affiliated transactions.

As a result, Arena employs policies and procedures governing the identification, assessment, monitoring and proper disclosure of conflicts of interest. Additional information regarding the allocation of investment opportunities and the manner in which Arena manages any related potential conflicts of interest is set forth in Item 11 of this brochure.

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

As described in Item 4 above, Arena offers investment advisory services to various funds and managed accounts, including managed accounts beneficially owned by affiliates.

With limited exceptions where permitted by applicable law, Arena will require that the underlying investors in the funds and accounts that it advises be "qualified purchasers" as that term is defined in Section 2(a)(51) of the Investment Company Act (with the exception of certain Arena personnel who qualify as "knowledgeable employees" under Rule 3(c)-5 of the Investment Company Act).

Arena generally requires, with some exceptions granted at the discretion of Arena, that the underlying investors in the Arena funds invest no less than \$5,000,000. Lastly, Arena's separate account minimum typically requires \$50,000,000 in commitments.

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

Arena seeks to generate risk-adjusted returns across a wide variety of fundamentals-based, asset-oriented, credit-focused investment opportunities.

Arena employs a number of investment strategies in connection with its investment advisory services and looks across a variety of industries, investment structures and geographies. The investment strategies include, but are not limited to: (i) corporate private credit, (ii) real estate and real estate-related credit assets, (iii) commercial and industrial assets, (iv) structured finance, (v) consumer assets and (vi) corporate and other securities.

Arena relies on its understanding of and relationships in diverse industries, a wide variety of financial products, and a global mix of jurisdictions to make credit-oriented investments that Arena would be comfortable to own, operate, and liquidate the underlying assets/collateral in case of default.

Arena will seek to gain comfort with potential investments through a bottom-up understanding of the fundamentals of a business and/or situation. Below are the main elements of the investment process:

- Sourcing Potential Investment. Investment professionals source direct investment opportunities and investment opportunities through joint ventures and provide investment proposals through introductory memoranda or term sheets; CIO meets with senior investment professionals/teams regularly.
- Conditional Investment Approval. Relevant investment team(s) and the CIO review investment memoranda for final conditional approval.
- Financing and Investment Allocation. The CIO determines a method for funding or financing investment and appropriate allocation of investments to clients, Arena and Arena affiliates, in accordance with Arena's Allocation Policies and Procedures.
- Legal. Deal counsel reviews legal documentation from investment team and in consultation with the CIO and investment professionals determines structure for each investment from a regulatory, tax and any other standpoint.
- Compliance. Arena's Chief Compliance Officer (the "CCO") performs regulatory analysis, seeks appropriate compliance with Arena's policies

and procedures and monitors allocation across funds/accounts in coordination with Arena's policies and procedures.

- Asset Management. The Asset Management group within Arena monitors and reviews investments going forward, assigns asset manager(s) to monitor the investment independently of portfolio manager and performs ongoing monitoring of asset for valuation risk management, in accordance with Arena's Valuation Policy. Additionally, Asset Management supervises the engagement and utilization of third party valuation agents for certain investments.

#### General Risk of Loss

All investments involve the risk of loss of capital that clients should be prepared to bear. The nature of the investment instruments Arena utilizes and the strategies which it employs may amplify this risk.

#### Significant Strategy-Related Risks of Loss

- (i) Illiquid Assets. It is anticipated that a substantial portion of the investments executed on behalf of Arena's clients will be (or become) relatively or entirely illiquid. In such cases, and in the event of extreme market volatility, Arena may not be able to liquidate a client's positions promptly if the need should arise. In addition, a client's sales of some securities could depress the market value of such securities and thereby reduce the client's profitability or increase its losses. Finally, an investor's receipt of withdrawal proceeds is dependent on how rapidly the client liquidates its underlying positions. As a result, the illiquidity of the assets could mean that that clients and investors are obligated to wait a significant time before receiving any withdrawal proceeds.
- (ii) Interest Rate Fluctuations. The prices of portfolio investments can be sensitive to interest rate fluctuations, and unexpected fluctuations in interest rates could cause the corresponding prices of a position to move in directions which were not initially anticipated. In addition, interest rate increases generally will increase the interest carrying costs to a client if the client has borrowed securities and/or otherwise leveraged its investments.
- (iii) Origination. Arena originate loans, including but not limited to, secured and unsecured notes, senior and second lien loans, mezzanine loans and other similar investments. Under those circumstances, the

clients will retain all earned portions of such fees received in connection with originating or structuring the terms of any such investment. Clients may subsequently offer such investments for sale to other parties, which could include certain other Arena investment funds or separately managed accounts or affiliates. The decision by Arena clients to accept or reject the offer may be made by a third party independent of Arena, such as an independent representative, independent directors of such client or an advisory or credit committee composed of individuals unaffiliated with Arena. In determining the target amount to allocate to originating a loan, a client may take into consideration the fact that it may sell, assign or offer participations in such investments to the parties described above. If the client is unable to sell, assign or successfully close transactions for the loans that it originates, the client may be forced to hold its interest in such loans for an indeterminate period of time. This could result in the client's investments being over-concentrated in certain borrowers.

- (iv) Investments in Secured Loans. Secured debt involves various degrees of risk of a loss of capital. The factors affecting an issuer's secured leveraged loans, and its overall capital structure, are complex. Some secured loans may not necessarily have priority over all other debt of an issuer. For example, some secured loans may permit other secured obligations (such as overdrafts, swaps or other derivatives made available by members of the syndicate to the company), or involve secured loans only on specified assets of an issuer (e.g., excluding real estate). Issuers of secured loans may have more than one tranche of secured debt outstanding, each secured by separate collateral. Furthermore, the liens referred to herein generally only cover domestic assets, and non-U.S. assets are not included (other than, for example, where a borrower pledges a portion of the stock of first-tier non-U.S. subsidiaries).

In the event of Chapter 11 filing by an issuer, the Bankruptcy Reform Act of 1978, as amended (the "Bankruptcy Code")\_authorizes the issuer to use a creditor's collateral and to obtain additional credit by grant of a priority lien on its property, senior even to liens that were first in priority prior to the filing, as long as the issuer provides what the presiding bankruptcy judge considers to be "adequate protection" which may but need not always consist of the grant of replacement or additional liens or the making of cash payments to the affected secured creditor. The imposition of priority liens on the client's collateral would adversely affect the priority of the liens and claims held by the client and could adversely affect the client's recovery on the affected loans. Any secured debt is secured only to the extent of its lien and only to the extent of underlying

assets or incremental proceeds on already secured assets.

- (v) Fraud. Of paramount concern in lending is the possibility of material misrepresentation or omission on the part of the borrower. Such inaccuracy or incompleteness may adversely affect the valuation of the collateral underlying the loans or may adversely affect the ability of a client to perfect or effectuate a lien on the collateral securing the loan. A client will rely upon the accuracy and completeness of representations made by borrowers to the extent reasonable, but cannot guarantee such accuracy or completeness.
- (vi) Bank Loans and Participations. A client's investment program may include bank loans and participations. These obligations are subject to unique risks, including: (i) the possible invalidation of an investment transaction as a "fraudulent conveyance" under relevant creditors' rights laws; (ii) so-called "lender liability" claims by the issuer of the obligations; (iii) environmental liabilities that may arise with respect to collateral securing the obligations; and (iv) limitations on the ability of the client to directly enforce its rights with respect to participations. In analyzing each bank loan or participation, Arena compares the relative significance of the risks against the expected benefits. Successful claims by third parties arising from these and other risks, absent violation of its standard of care by Arena or its affiliates, will be borne by the client.

A client may experience significant delays in the settlement of certain loan and/or bank debt transactions, particularly in the case of investments that are or become distressed. Until such transactions are settled, the client is subject to counterparty insolvency risk. Pursuant to certain insolvency laws, a counterparty may have the ability to reject or terminate an unsettled loan transaction. If a counterparty rejects an unsettled transaction, the client might lose any increase in value with respect to such loan that accrued while the transaction was unsettled.

A client may also invest in loan participations where it will be subject to certain additional risks as a result of having no direct contractual relationship with the borrower of the underlying loan. In such circumstances, the client generally would depend on the lender to enforce its rights and obligations under the loan arrangements in the event of a default by the borrower on the underlying loan and will generally have no voting rights with respect to the issuer, as such rights are typically retained by the lender. Such investments are subject to the credit risk of the lender (as well as the borrower) since they will depend upon the

lender forwarding payments of principal and interest received on the underlying loan. There can be no assurance that the lender will not default on its obligations under such arrangements, resulting in substantial losses to the client.

- (vii) Prepayment Risk. The frequency at which prepayments (including voluntary prepayments by the obligors and liquidations due to default and foreclosures) occur on loans and other debt underlying certain of the client's investments will be affected by a variety of factors including, but not limited to, the prevailing level of interest rates as well as economic, demographic, tax, social, legal and other factors. In general, "premium" financial instruments (i.e., financial instruments whose market values exceed their principal or par amounts) are adversely affected by faster than anticipated prepayments, and "discount" financial instruments (i.e., financial instruments whose principal or par amounts exceed their market values) are adversely affected by slower than anticipated prepayments. Since a client's investments may include discount financial instruments when interest rates are high, and may include premium financial instruments when interest rates are low, such investments may be adversely affected by prepayments in any interest rate environment.
- (viii) Transactions with Affiliates. Arena acquires certain assets on behalf of its clients in affiliated transactions, including both through (i) cross trades with other Arena clients, including accounts beneficially owned by its affiliates, and (ii) principal transactions with Arena's originations affiliate, AOC. Purchasing assets from an affiliate presents a number of conflicts, including the potential of enhancing profits for Arena's principals while disadvantaging the economic interests of an Arena client. Although certain conflict procedures have been implemented to mitigate these risks, there is no guarantee that the conflicts and related risks will be altogether eliminated.
- (ix) Risk Arbitrage. Special risks are associated with the use of risk arbitrage, or "merger arbitrage," techniques. In addition to general risks of market behavior and currency fluctuations, merger arbitrage is subject to "deal risk" – the risk of non-consummation of the transaction. A number of factors may lead to deal collapse or delay, such as either party's inability to satisfy conditions to closing, failure to obtain shareholder approval, failure to meet regulatory or antitrust requirements, failure to obtain required financing, or other events that may change the target's or the acquirer's willingness to consummate the transaction.

- (x) Limited Right of Withdrawal. In accordance with the terms of the organizational agreements relevant to Arena's initial clients, fund investors are restricted in their withdrawal rights, and assets corresponding to the Set Aside Portion described under Item 5 above will generally continue to be managed as part of the client's broader portfolio and will not be managed with a view towards prompt liquidation of the investor's position. An investor or client may not receive the proceeds related to its Set Aside Portion for several years, and the assets comprising the Set Aside Portion will continue to be subject to all of the risks attributable to the client in general. Further, the Set Aside Carry in respect of the assets corresponding to a Set Aside Portion is calculated separately from the Carry calculated on the withdrawing investor's remaining capital account. As a result, such Set Aside Carry may be paid at a time when a withdrawing investor's remaining capital account balance is in a loss position.

Additional strategy-related risks include, without limitation:

- risks related to holding loans
- risks related to investing in non-performing loans and related assets
- risks related to agency provisions in loans
- risks related to acquiring real estate loans and participations
- operating in a difficult and unpredictable credit environment
- credit risk
- risks related to credit spreads
- currency risk
- risks related to subordinated debt investments
- risks related to structured finance investments
- risks related to derivative investments
- changes in the availability of debt financing or attractive prices
- increase in default rates on commercial and residential mortgages
- risks related to short selling
- risks related to hedging transactions
- risks related to bankruptcy and trade claims
- risks related to limitations on quantitative models
- risks related to cross-collateralization
- risks related to highly volatile investments
- risks of investing in difficult to value investments
- limited diversification
- risks of country-specific or region-specific investing



- risk of a continued economic slowdown or recession
- risks inherent to a global investment portfolio, including political, social and economic uncertainty and foreign currency risk
- counterparty risk
- increased governmental and regulatory intervention and restrictions that could adversely impact investments
- risks related to the use of leverage
- risks related to investing in excess mortgage-servicing rights
- risks related to investments in financial instruments that are inherently highly leveraged

A complete description of the risks associated with each particular investment strategy is included in the Offering Documents (or the IMA, where applicable), a copy of which is provided to prospective investors and should be carefully reviewed prior to investing.

*Investment Instruments Utilized*

Arena purchases and sells on behalf of its clients investment instruments which include, but are not limited to, the following:

1. Corporate private credit, including, without limitation, senior private corporate debt, bridge loans/transition financing, debtor-in- possession financings (“DIPs”), junior secured loans, junior capital to facilitate restructurings, equity co-investments or warrants alongside corporate loans;
2. Real estate and real estate-related credit assets, including, without limitation, secured or unsecured mezzanine financings, DIPs, “A-tranche” loans (senior secured loans) and “B-tranche” loans (junior secured loans) for real estate properties requiring near-term liquidity, structured letters of credit, real estate loans secured by land, single family homes, multi-family apartments, condominium towers, hospitality providers, health care service providers, and corporate campuses;

Commercial and industrial assets, including, without limitation, investments in entities (including start-up businesses) engaged, or to be engaged, in activities or investments such as distressed commercial and industrial loans, commercial and industrial assets such as small-scale asset based loans, trade claims and vendor puts, specialized or other types of equipment leases and machinery, non-performing loans globally, hard assets (including airplanes and components, industrial machinery), commodities (physical and synthetic), re- insurance and

premium finance within life and property casualty insurance businesses, legal-related finance including law firm loans, settled and appellate judgments and probate finance, royalties, intellectual property;

3. Structured finance, including without limitation, “off-the-run” loans and securities backed by mortgages (commercial and residential), other small loans including equipment leases, auto loans. Further, commercial mortgage-backed securities, residential mortgage-backed securities, collateralized loan obligations, collateralized debt obligations, other structured credits and consumer credit securitizations, aviation and other leased asset securitizations, esoteric asset securitization, synthetics, and catastrophe bonds;
4. Consumer assets, including without limitation auto and title loans, credit cards, consumer installment loans, charged-off consumer obligations, consumer bills, product-specific purchase finance, residential mortgages, tax liens, REO homes, other consumer credit securitizations, retail purchase loans and unsecured consumer loans as well as distressed or charged-off obligations of all of these types, manufactured housing, and municipal consumer obligations; and
5. Corporate and other securities, including, without limitation, hedged and unhedged investments in public securities (including public real estate), municipal bonds, senior public corporate debt, secondary market bank debt, distressed debt such as senior secured bank debt before or during a Chapter 11 bankruptcy filing, bonds in liquidation or out-of-court exchange offers and trade claims of distressed companies in anticipation of a recapitalization, other industry relative value, merger arbitrage in transactions such as mergers, hedged investments in regulated utilities, integrated utilities, merchant energy providers, acquisitions, tender offers, spin-offs, recapitalizations and Dutch auctions, event-driven relative value equity investments in transactions such as corporate restructurings, strategic block, other clearly defined event, high-yield bonds, credit arbitrage and convertible bond arbitrage, in/post bankruptcy equities, de-mutualizations, liquidations and litigation claims, real estate securities, business development companies, MLPs, royalty trusts, publicly traded partnerships, options and other equity derivatives. In addition, Arena may invest in various derivatives, including, without limitation, options, futures, commodities, swaps and swaptions, for hedging and independent investment opportunities. Investments may be made in U.S. and non-U.S. securities or instruments that trade on exchanges or over-the-counter or that are acquired in private placements or otherwise. Investments may be made either directly or indirectly, including through private funds which make any or all of the types of investments described above. Both long and short positions may be taken. Arena may also utilize leverage for hedging or other strategies.

Arena may invest in the business of other investment managers and non-recourse financing transactions whereby certain assets are contributed to a special purpose vehicle formed for the purpose of facilitating the acquisition of such assets. In addition, Arena may offer advice on the borrowing of money to finance certain transactions or to obtain “permanent capital.”

All of these investment types are highly speculative in nature, and there can be no assurance that the investment objectives will be achieved. Investors must be prepared to bear the risk of a total loss of their investment. More detailed information about the types of investments that Arena may make on behalf of clients, and the corresponding risks, is provided in the Offering Documents (or, where applicable, the IMA).

## **ITEM 9. DISCIPLINARY INFORMATION**

Neither Arena nor any of its Supervised Persons has been subject to legal or disciplinary events related to this item.

## **ITEM 10. OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

### *Commodity Pool Operator*

Each General Partner intends to operate the funds it advises pursuant to the exemptions to registration provided by Commodity Futures Trading Commission Rule 4.13(a)(3).

### *Broker-Dealer*

Arena Financial Services, LLC (“AFS”) is a registered broker-dealer and member of FINRA and is an affiliate of Arena. AFS’s principals are also principals and registered representatives of Arena. Certain Arena employees are also registered representatives of AFS. AFS acts as placement agent for certain of the funds advised by Arena. AFS is not compensated by those funds for acting as placement agent (although it is being indemnified by such funds to the same extent and subject to the same standards as Arena). AFS will not act as a broker for or an agent of any fund investor or client and its activities on behalf of a fund should not be construed as a recommendation to purchase interests in any such funds, as AFS makes no such recommendations. Arena and/or clients will not otherwise use the services of or pay sales commissions to AFS.

### *Certain Affiliates*

Arena is affiliated with the following entities:

- Westaim owns Arena through indirect holding companies;
- Houston International Insurance Group, Ltd., a U.S.-based diversified specialty insurance provider and managing general insurance agent is a subsidiary of Westaim;
- AOC, which primarily originates loans for the purposes of selling them

(including to clients advised by Arena) (please see Item 5 and Item 11 for information relating to conflicts of interest);

- The General Partners, which (along with any persons acting on behalf of the General Partners) are subject to the supervision and control of Arena in connection with any investment advisory activities;
- Arena Management Co., LLC (and its affiliates), which provides personnel and back office support and perform certain non-advisory front office services and other administrative services for Arena; costs with respect to these services may be
  - (i) calculated based on a reimbursement of expenses
  - (ii) competitive with fees charged by third-parties for similar such services;
- Arena's finance affiliated includes Arena Finance Holdings Co, LLC (and subsidiaries), collectively ( the "Arena Finance Affiliates"), earn interest income and certain financing- related fees from holding debt instruments they acquire from AOC as well as from unrelated parties; BernardCo is expected to participate in the profits of the Arena Finance Affiliates, and Mr. Zwirn will perform certain services on behalf of these firms (please see Item 11 for information relating to the conflicts of interest)
- The direct owner of Arena is Westaim Arena Holdings II, LLC. Mr. Zwirn (through BernardCo) has certain economic rights with respect to Arena and controls the day-to-day management and investment activities of Arena.

Mr. Zwirn

Mr. Zwirn may serve as a director, officer, principal of and/or advisor to other investment advisers or other businesses in the financial services industry and may serve as a trustee and on various committees for certain non-profit organizations. In particular, Mr. Zwirn's financial services activities currently include the following:

- Brookings Institution - trustee
- Barnard College - trustee
- University of Pennsylvania's Jerome Fisher Program in Management & Technology - Executive Board
- North Mill Capital – Member/adviser to senior investment committee and credit committee
- Colford Capital Holdings L.L.C. – Member/adviser to senior investment committee
- Applied Data Finance (a venture-backed provider of online consumer credit)

- Director; co-CEO
- AOC – CEO
- Arena Finance Affiliates - CEO

### Conflicts

Certain of Mr. Zwirn's activities described above may reduce the amount of time that he is able to spend on Arena's activities. Furthermore, although such outside business activities are not currently competitive with Arena's business, the nature of a particular business and/or the extent of Mr. Zwirn's involvement may change in such ways as to compete or conflict with Arena's business. Arena may utilize certain service providers with whom Mr. Zwirn is connected to provide certain services related to investments for client funds and accounts. Any related fees will be comparable to fees that a qualified independent third-party service provider would have charged.

Additional information regarding Arena's management of potential conflicts connected with its financial affiliations and those of Mr. Zwirn is provided in Item 11 below.

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

### Code of Ethics

Arena has adopted a Code of Ethics (the "Code") which includes, among other policies, a Personal Trading Policy and an Insider Trading Policy, to establish principles of conduct and to assist in detecting, managing and to the extent possible avoiding conflicts of interest that may arise between employees and clients as a result of personal investing activities. The Code is designed with the goal of ensuring, among other things, that Supervised Persons conduct their personal investing activities in accordance with applicable law and in a manner where clients' interests are placed first and foremost. All employees are responsible for upholding Arena's fundamental principles of openness, integrity, honesty and trust and must conduct their activities with due skill, care, diligence, prudence and fairness.

To meet the requirements of the Code regarding personal trading, Arena automates, where possible, the reporting requirements and approval process through an electronic compliance system. Arena's Code's personal trading requirements apply to all Arena Access Persons, which generally includes employees, as well as their spouses, certain members of their immediate families and other persons as further described in the Code. Furthermore, the Code applies to any account in which an Access Person has a direct or indirect beneficial, economic or financial interest or over which an Access Person has investment discretion or direct or indirect influence or control.

Generally, the Code requires, among other things, that all Access Persons pre-clear securities transactions pursuant to the Code, including transactions in private placements. Access Persons are permitted to trade in the same securities in which a client might invest but may be required to break the trade if the timing is too close to the timing of a client trade. The Code also requires Access Persons to report accounts and securities holdings covered by the Code at the commencement of their employment and periodically thereafter. In addition, on a quarterly basis, Access Persons are required to report securities transactions executed during the quarter.

Arena's Code imposes prohibitions on Access Person trades including: (i) trades based on inside information; (ii) trades intended to manipulate the market; (iii) trades in securities on Arena's restricted list; (iv) trades in securities subject to an open order or during a blackout period; and (v) trades in new issues. Arena has exempted certain types of securities from some of the requirements and prohibitions of the Code including the pre-clearance requirement and blackout prohibitions.

As part of the Code, Arena has established an Insider Trading Policy. Arena's Insider Trading Policy includes specific requirements regarding the possession of material non-public information ("MNPI") in order to avoid situations which may violate applicable regulatory statutes or create an appearance of impropriety.

Arena's Insider Trading Policy strictly forbids any employee from conducting trades, either personally or on behalf of others, including clients of Arena, while in possession of MNPI that may affect the security to be traded and from improperly communicating MNPI to others (i.e., "tipping").

**A copy of the Code will be provided to any client or investor or prospective client or investor upon request.**

*Recommendations of Securities in which Arena or a Related Person has Some Financial Interest*

Arena and its affiliates may engage in a broad spectrum of activities, including direct (or principal) investment activities for their own accounts and investment advisory activities that, with respect to any particular client, are independent from, and may from time to time conflict with, overlap with or compete with, the investment activities of other clients.

*Principal Transactions and Cross Transactions*

Subject to applicable investment guidelines and restrictions, as previously noted under Item 5, AOC (or a fund) will, as necessary, originate loans and then later sell the loan to an Arena client (or in the case of an origination by a fund, another Arena client account) or to a third party.

Sales of loans originated by AOC to an Arena client may be “Principal Transactions.” Sales of loans originated by one Arena client to another Arena client, may be “cross transactions,” and may, depending the facts and circumstances, including Arena’s proprietary interest in either or both clients, also constitute principal transactions. In addition, Arena may direct one client account to sell securities or loans from the client’s portfolio to another client account through a “cross transaction” when Arena deems the transaction to be in the best interest of each participating client (*e.g.*, for rebalancing or tax purposes, liquidity purposes or to reduce transaction costs that may arise in an open market transaction). Similarly, such cross transactions may, depending on the facts and circumstances, including Arena’s proprietary interest in either or both clients, constitute a “principal transaction.”

By way of a few examples, a domestic fund may originate loans and then sell them to an offshore fund, or other Arena affiliates, including AOC, may originate loans with or without a U.S. fund’s participation and sell or participate them to a U.S. fund, an offshore fund or to third parties. Such transactions may be made with or without the services of a broker-dealer.

When effecting such transactions between AOC and a client, Arena will have conflicting loyalties and responsibilities with respect to AOC, as Arena’s personnel, including Dan Zwirn, will overlap with personnel at AOC. Further, originating loans generates origination and other transaction-related fees for AOC. Certain members of the management team will be entitled to share in such origination and transaction-related fees, which creates an incentive for such team members to invest client assets in loans originated by AOC. Arena and its personnel therefore will have conflicts of interest in determining whether to acquire a loan from a third party or from AOC. Arena seeks to mitigate this conflict as described below.

Arena also may have conflicting loyalties and responsibilities with respect to transactions among or between clients, including affiliated clients. Origination and other transaction-related fees are also generated when a client originates a loan that it sells to another Arena client. Such fees similarly may be shared with certain members of the management team and also create conflicts of interest for Arena and its personnel in determining whether to cause a client to acquire a loan from a third party or from another client or an affiliated entity.

Arena seeks to mitigate the conflicts and potential conflicts described above by conducting a number of activities to address, monitor and manage such conflicts and potential conflicts, including those related to the sale of loans from AOC to a client and to transactions between and/or among Arena and its clients. The CCO is involved in oversight, review and approval processes regarding principal transactions and cross transactions in a number of ways, depending on the facts and circumstances of each

such transaction. Arena has also established committees, including its Allocation Committee, to seek to ensure fulfillment of its fiduciary duties in terms of allocation decisions and affiliated or principal transactions.

To the extent that Arena believes any such transaction may constitute a “principal transaction” under the Advisers Act (*i.e.*, where Arena or an affiliate is acting as principal for its own account and knowingly transacts with a client), Arena has implemented policies and procedures designed to comply with the provisions of Section 206(3) of the Advisers Act. As described in the relevant Offering Documents, actual conflicts, and, where deemed necessary, potential conflicts, in connection with a principal transaction or a cross trade may be brought to an unaffiliated third party as agreed to by investors who is designated to consider such conflicts along with the price and value of the relevant asset and determine whether the transaction is consistent with those between unrelated parties and provide consent to the transaction on behalf of the client(s) (an “Independent Representative”). In addition, a committee consisting of certain representatives of the client (or its investors) or a third party with relevant experience with credit assets, valuation and/or conflicts (each such committee, an “Other Committee”) *may be established* to review any transactions approved by the Independent Representative. However, it is not expected that an Other Committee will review such transactions prior to settlement or be entitled to overrule any prior consents provided by the Independent Representative. Under certain circumstances, an Other Committee may be permitted to request the appointment of a new or additional Independent Representative. In addition to the foregoing, an Other Committee may be tasked with providing certain approvals on behalf of the client, including approving transactions involving potential conflicts of interest. Any consents given by the Independent Representative or an Other Committee will be binding on the relevant Arena client (and its investors).

#### Allocating Investment Opportunities and Related Conflicts of Interest

The investment objectives of a client may be similar to, or overlap with, the investment objectives and proposed investment programs of other Arena clients, Arena and Arena affiliates and therefore, certain clients and affiliates may compete for investment opportunities with each other. As a result, the allocation of investment opportunities gives rise to potential and actual conflicts of interest, as Arena has an incentive to favor its affiliates regarding allocation of investment opportunities. Arena will seek to make all allocations of investment opportunities among clients in a fair and equitable manner over time.

#### Allocation of limited investment opportunities

In making allocation decisions with respect to limited investment opportunities that



could reasonably be expected to fit the investment objectives of one or more clients, Arena affiliates or Arena itself, Arena anticipates that it may consider one or more of the following factors that it deems relevant: the investment objectives of clients, the source of the investment opportunity, any exclusive rights to investment opportunities that may have been granted to particular clients, the expected duration of the investment in light of clients' investment objectives and policies (including diversification policies), the amount of available capital, the size of the investment opportunity, regulatory and tax considerations, the degree of risk arising from an investment and the risk tolerance of the client, the expected investment return, relative liquidity, likelihood of current income or such other factors as Arena deems to be appropriate. These factors provide substantial discretion to Arena in allocating investment opportunities. Further, two or more clients may hold an investment for which there is extremely limited, or no, liquidity or that is subject to legal or other restrictions on transfer. In a situation where Arena is limited in its ability to dispose of an investment, Arena may consider the factors described above in allocating the sale of such an investment.

If an investment opportunity is available in limited quantities, subject to investment restrictions and fiduciary duties, Arena may have an incentive to allocate such investment opportunity to Arena affiliates or to one client rather than other clients. For example, such an incentive may arise if the economic interests of Arena and its employees in certain clients, when combined with their rights to Management Fees and/or Carry or other fees, are significantly larger than their direct and indirect economic interests in other clients.

In an attempt to resolve those conflicts in the context of allocating investment opportunities, Arena has developed an Allocation Policy and a set of allocation procedures which take into account many of the above enumerated factors, as well as other considerations, in determining how investment opportunities will be allocated between and among advisory clients and affiliates.. Arena will endeavor to address the conflicts so that, over time, all clients are treated fairly and equitably and no Arena client is systematically disadvantaged.

In addition to the above factors, a number of other factors may be taken into consideration when allocating investment opportunities among Arena's clients, including risk tolerances, size of client accounts, size of available positions, current market conditions, total portfolio invested positions and the nature of the investment to be allocated. Generally, when any of Arena's clients or affiliates have available funds for investments, investments suitable and appropriate for each will be allocated substantially *pro rata* on an overall basis between and among such clients to the extent possible, unless Arena believes, in good faith, that another method would be more fair

and equitable.

If Arena determines that the purchase or sale of the same security is in the best interest of more than one client account or an affiliate, Arena may, but is not obligated to, aggregate orders in order to reduce transaction costs to the extent permitted by applicable law. When an aggregated order is filled through multiple trades at different prices on the same day, each participating account will typically receive the average price with transaction costs allocated *pro rata* based on the size of each account's participation in the order (or allocation in the event of a partial fill) as determined by Arena. In the event of a partial fill, allocations generally will be made *pro rata* based on the initial order, but may be modified on a basis that Arena deems to be appropriate, including, for example, in order to avoid odd lots or *de minimis* allocations.

Potential conflicts due to overlapping investments

Where clients and Arena affiliates hold the same investment, the differing investment objectives of such accounts, as well as other factors applicable to the specific situation, may result in a determination to dispose of, or retain, all or a portion of such investment on behalf of a client (or on behalf of Arena itself or its affiliates or employees) at different times as such investment or portion thereof is being disposed of, or retained, by other clients. In addition, particularly with respect to illiquid or private investments, conflicts of interest can arise when disposing of a particular investment which would be beneficial for one client (or Arena, its affiliates or its employees) while retaining such investment would be beneficial for another client (or Arena, its affiliates or its employees).

Also, should a particular client invest in entities or assets in which other clients hold an investment, the investment by such client could be viewed, especially in hindsight, to have been made on a non-arm's-length basis and could have an effect (either positive or negative) on the market price of the initial investment.

Further, it's possible that a client, Arena affiliate, Arena employee could hold interests in an entity that are of a different class or type than the class or type of interest held by another client. For example, one client may hold securities in an entity and other clients (or Arena affiliates or employees) may hold equity or debt of such entity that are senior or junior to the securities held by the client, which could mean that the clients (or Arena affiliates or employees) will be entitled to different payment or other rights, or that in a workout or other distressed scenario the interests of one client might be adverse to those of other clients (or Arena, its affiliates or employees) and such client might recover all or part of its investment while the other clients (or Arena, its affiliates or employees) might not (or vice versa).

For example, Arena and/or its affiliates have entered and/or may enter into or arrange for non-recourse financing transactions on behalf of Arena's clients, in which the management objectives and the economic interests of each client may differ. Various potential and actual conflicts of interest may arise as a result of these types of transactions. These include, but are not limited to, the fact that the interest of one client may be structurally subordinate to another client's interest. For example, where an offshore fund holds notes, and a U.S. fund holds preferred shares, Arena could manage a portfolio of loans so as to maximize and/or accelerate the return to the U.S. fund, as the holder of the preferred shares, to the detriment of the offshore fund, as the holder of the notes, and vice-versa. As such, this may create conflicts and affect the decisions made by Arena in each of its management roles.

In addition to the conflicts described above, other conflicts may arise, including, without limitation, in approving a plan of reorganization that benefits debtholders to the detriment of equity holders. For example, the determination of the interest rate on debt purchased by an offshore fund in a transaction where a U.S. fund acquires equity may also give rise to a conflict.

Arena recognizes that conflicts may arise under such circumstances and will endeavor to treat all funds, separately managed accounts and proprietary accounts fairly and equitably on an overall basis over time. Clients will not be required to take any action or refrain from taking any action to mitigate another client's (or Arena's affiliates or employee's) losses in a conflict scenario, and Arena will make decisions on how to resolve such situations in its sole discretion. To the extent such decision-making involves voting of client securities, please see Item 17 for more information.

*Other conflicts of interest related to investments*

Arena may invest in securities on behalf of one client (or Arena affiliates may purchase such securities) that may differ from investments made on behalf of other clients, even though the investment objectives of other clients may be similar. Moreover, Arena, clients, or Arena's affiliates or employees may make investments or engage in other activities that express inconsistent views with respect to an investment, a particular security or relevant market conditions.

In addition, Arena expects to make other business decisions on behalf of certain clients relating to investments independently of the manner in which it approaches a similar or even the same investment held by other clients. Consequently, Arena, on behalf of certain clients, may choose not to hedge certain risks that other clients hedge, or certain clients may be exposed to risks of financing on an investment when other clients are not. Further, in some instances, Arena may choose to coordinate its clients' activities (such as

timing dispositions in an orderly way in order to avoid affecting the value of an investment in an unduly volatile manner) with respect to investments held by more than one client, when it would theoretically be possible for Arena to act unilaterally with respect to a particular client's holdings in such investment. Such coordination could have the effect of lowering returns for a particular client with respect to an investment relative to what might have been achieved absent such coordination.

Furthermore, certain clients of Arena may, from time to time, engage in transactions that are initiated in such a way that objectives related to tax may limit Arena's discretion over the ongoing management of the transaction.

Additionally, Arena and/or its affiliates may have ongoing professional relationships with companies whose securities or other financial instruments are in or are being considered for Arena clients' accounts and/or with companies who provide services related to client investments.

Arena and certain of its affiliates also charge fees that may approximate 50 bps (0.50%) per annum on the fair value of the illiquid portion of the loan portfolios managed by Arena in connection with the management and servicing of those assets. This fee is in addition to the Management Fee borne by the fund or client accounts and is used to offset the expense of engaging personnel and incurring other overhead costs to manage those loans in lieu of hiring an unaffiliated third-party loan servicer (please see Item 11 for information relating to conflicts of interest).

Affiliates of Arena may also charge other fees to cover services which are not included in the customary items covered by the Management Fee and which could be provided by unrelated third parties at fund or client account expense. Any such other fees will be comparable to fees that a qualified independent third-party service provider would have charged.

#### Other Potential Regulatory Limitations

Certain clients may be subject to regulatory or legal restrictions that are applicable only because other clients are also invested in the same securities. For example, position limits – *i.e.*, the maximum amounts of gross, net long or net short positions that any one person or entity may own or control in a particular financial instrument – imposed by various regulators may limit Arena's ability to effect certain desired trades for clients. All positions owned or controlled by the same person or entity, even if in different accounts, may be aggregated for purposes of determining whether the applicable position limits have been exceeded. Thus, even if one client's account does not exceed applicable position limits, it is possible that positions held by other clients may be required to be aggregated together for purposes of applying position limits and as such

a client may be prevented from owning certain investments because of the activity of other clients. If at any time any aggregated positions managed by Arena were to exceed applicable position limits, Arena would potentially be required to liquidate positions in some or all of its client accounts to the extent necessary to come within those limits. Arena will choose whether and how to liquidate positions to maintain compliance with the applicable limits in its sole discretion.

*Restrictions on Client Trading Activities Resulting from the Acquisition of Material Non-Public Information*

Arena's Supervised Persons regularly acquire confidential information and Arena may enter into confidentiality and/or "standstill agreements" when assessing investment opportunities. By reason of its various activities, Arena and its employees may have access to MNPI about an issuer. For example, an employee of Arena may serve from time to time as a director, an executive officer or in a similar capacity with respect to an issuer whose securities may be purchased or sold on behalf of clients. Additionally, in the ordinary course of their investment activities or outside business activities, employees of Arena may acquire MNPI that may result in restrictions on a client's ability to sell a portfolio investment at a time when it might otherwise have done so. Such activities could prevent clients from buying or selling securities or other interests in an issuer, potentially for an extended period and potentially resulting in investment losses.

Arena has adopted certain policies and procedures concerning the handling of MNPI. These policies and procedures are designed to prevent insider trading and violations of applicable securities laws by each employee, clients and Arena itself. As such, in the event that an employee of Arena obtains MNPI with respect to any company or otherwise becomes restricted from trading the securities of such company for any reason, Arena may be prohibited for a period of time from engaging in transactions on behalf of some or all its clients with respect to the securities of such company, which prohibitions may have an adverse effect on such clients, including with respect to investment losses.

**ITEM 12. BROKERAGE PRACTICES**

Each client pays its own brokerage commissions and other transaction costs. Neither Arena nor any of its affiliates will receive any commissions generated by a client's trading activities. Arena and its affiliates may benefit indirectly from payments made by a client, including payments by way of "soft dollars" as described below, or through receipt of other benefits such as reduced brokerage costs.

In selecting an appropriate broker-dealer to effect a client trade, Arena seeks to obtain best execution, taking into consideration a broker-dealer's execution capabilities and expertise to execute transactions for client accounts, in addition to the price of the security offered by the broker-dealer. Considerations include the broker-dealer's full range and quality of services, including, among other things, its reliability and financial responsibility, reputation, execution capabilities, ability to execute difficult trades (possible market impact, size of the order and market liquidity), special execution and block positioning capabilities, commitment of capital, access to new issues, nature and frequency of sales coverage, depth of services provided, including economic or political coverage, arbitrage and option operations, access to markets, confidentiality, commission rates, responsiveness to Arena, back office and processing, custodial services, the value of brokerage and research products and services provided to Arena (e.g., research ideas, analysis, and investment strategies) and the success of prior research ideas.

In selecting broker-dealers, Arena weighs a combination of the preceding factors. Arena will in its sole discretion select broker-dealers to execute client transactions based on a totality of the circumstances, including any or all of the factors outlined above. This means that a broker-dealer offering the most favorable commission or spread may not be selected to execute a particular transaction. The commissions and other transaction costs (which may include dealer markups or markdowns) charged to a client by a broker-dealer in the foregoing circumstances may be higher than those charged by other broker-dealers that may not offer such products or services. In selecting broker-dealers to execute transactions, Arena need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. It will not be Arena's practice to negotiate "execution only" commission rates; thus clients may be deemed to be paying for other services, including research products and services, provided by the broker which are included in the commission rate.

#### Soft Dollar Usage

From time to time, Arena, in recognition of the value of the brokerage and research services provided by the broker-dealer, may pay a broker-dealer commissions (or markups or markdowns with respect to certain types of riskless principal transactions) for effecting client account transactions which may be in excess of that which another broker-dealer might have charged for effecting the transaction. Pursuant to its Soft Dollar Policy, Arena will effect such transactions, and receive such brokerage and research services, only to the extent that, based on Arena's good faith determination, the amount of commission is reasonable in relation to the value of the research and brokerage products or services received, viewed in terms of either the specific transaction or Arena's overall responsibility to its clients. Arena will endeavor to enter into such soft dollar arrangements only to the extent that they fall within the safe harbor

provided by Section 28(e) of the Securities Exchange Act of 1934 ("Section 28(e)"). Arena believes it is beneficial to its investment decision-making processes to have access to independent research.

Generally, research services provided by broker-dealers may include, among other things, information and/or analyses on the economy, industries, groups of securities, individual companies, statistical information, accounting and tax law interpretations, political developments, legal developments affecting portfolio securities/investments, technical market action, pricing and appraisal services, electronic market quotations, credit analysis, risk measurement analysis, performance analysis, analysis of corporate responsibility issues, data on pricing and availability of securities, publications, attendance at conferences, due diligence on specific companies/investments and potential investment opportunities, analyses on issues raised in proxy statements and market, economic and financial studies and forecasts, software for use in research and trading and meetings arranged with corporate and industry spokespersons, economists, academicians, and government representatives. Such research services may be provided in the form of access to various computer-generated data, in written form or verbally, such as through telephone contacts or personal meetings. In some cases, research services may be generated by third parties but provided to Arena by broker-dealers.

Also, consistent with Section 28(e), research products or services obtained with "soft dollars" generated by one or more client accounts may be used by Arena to service one or more other client accounts. In addition, some research products or services may not be used by Arena in servicing the clients whose commission dollars paid for the research products or services. Clients may or may not, in any particular instance, be the beneficiaries of the research products or services provided in connection with such clients' transactions.

Where a product or service obtained with soft dollars provides both research and non-research assistance to Arena (*i.e.*, a "mixed use" item), Arena will make a good-faith effort to determine the relative proportion of the research product or service used to assist Arena in carrying out its investment decision-making responsibilities, and the relative proportion used for administrative or other non-research purposes. The proportionate amount of the research product or service attributable to assisting Arena in carrying out its investment decision-making responsibilities will be paid through brokerage commissions generated by client transactions; the proportionate amount attributable to administrative or other non-research purposes will be paid for by Arena from its own resources. In making good faith allocations of costs between administrative benefits and research and brokerage services, a conflict of interest may exist by reason of Arena's allocation of the costs of such benefits and services between

those that primarily benefit Arena and those that primarily benefit clients.

Consistent with the foregoing, Arena will seek best execution when it has discretionary authority to select broker-dealers. Where available, Arena may use “step-out” trade mechanisms to effect brokerage transactions. A step-out trade allows for execution through one broker-dealer who steps out all or a portion of the trade in favor of the other broker-dealer. The commission is charged by the other broker-dealer, or clearing broker-dealer, and the executing broker-dealer receives compensation only for the portion of the trade that was not stepped-out, as applicable.

Arena considers the amount and nature of research products and services provided by broker-dealers, as well as the extent to which such services are relied upon, and attempts to allocate a portion of the brokerage business of its clients on the basis of that consideration. Broker-dealers may sometimes suggest a level of business they would like to receive in return for the various products and services they provide. Actual brokerage business received by any broker-dealer may be more or less than the suggested allocation, because total brokerage is allocated on the basis of all of the considerations described above. In no case will Arena make binding commitments as to the level of brokerage commissions it will allocate to a broker-dealer, nor will it commit to pay cash if any informal targets are not met. A broker-dealer is not necessarily excluded from receiving business because it has not been identified as providing research products or services. Furthermore, in exchange for the direction of commission dollars to certain brokers, Arena may generate credits, which may be used to pay for the research products or services provided by such brokers. To the extent Arena generates such soft dollar credits, it will be receiving a benefit by reason of the direction of commissions.

Affiliate benefits or personal benefits may be received by Arena principals and employees as indirect benefits for brokerage services obtained from certain brokers on behalf of the fund and client accounts.

Arena will regularly evaluate the placement of brokerage services and the reasonableness of commissions paid. Research received from brokers will be supplemental to Arena’s own research efforts. While the receipt of research products and services will not significantly reduce Arena’s normal research activities, Arena’s expenses could increase materially if it attempted to generate such additional information and services through its own staff. As such, Arena’s arrangements for the receipt of research services from brokers may create a conflict of interest, in that Arena may have an incentive to choose a broker-dealer that provides research services, instead of one that does not (but charges a lower commission rate).



*Liability of Arena for Certain Acts or Omissions, Including Trade Errors*

On occasion, trades may be executed on behalf of clients that are inconsistent with the trading instructions of a portfolio manager or are the result of some other error in the trading process. Such trades are considered by Arena to be “Trade Errors” and are generally deemed to have occurred when, as a result of such inconsistency or other error in process: (i) the wrong instrument is purchased or sold; (ii) the wrong quantity of an instrument is purchased or sold; (iii) a purchase is made instead of a sale or a sale is made instead of a purchase; or (iv) an instrument is purchased or sold in violation of regulatory or contractual obligations. Trade Errors do not include scenarios that do not result in a trade. Trade Errors may result in losses or gains. Arena will endeavor to detect Trade Errors before settlement and correct and/or mitigate them in an expeditious manner. To the extent a Trade Error is caused by a third party, such as a broker, Arena may seek to recover any losses associated with the Trade Error from such third party, but may choose not to do so in its discretion, and Arena will not be liable for such losses. Unless a Trade Error has resulted from the willful misconduct or gross negligence of Arena or its employees, any losses will be borne by the client. Any gains resulting from a Trade Error will be for the benefit of the client. Arena will determine in its sole discretion whether any Trade Error has resulted from willful misconduct or gross negligence on its part. Investors should be aware that, in making such determinations, Arena will have a conflict of interest.

No Arena Party will be liable to a client for any claim, loss, cost, indebtedness, liability, settlement or expense (including, without limitation, court costs, attorneys’ fees and expenses, costs of investigation, expert witness fees, taxes and penalties) suffered by the client that arises out of any action or inaction of Arena if such course of conduct did not constitute willful misconduct, gross negligence, fraud or criminal wrongdoing in or about the conduct of the client’s business or affairs or in the execution or discharge of its duties, powers, authorities or discretions (the “Standard of Care”).

In addition, each client will indemnify and hold Arena harmless from and against, and will reimburse such Arena promptly upon demand for, any and all claims, losses, costs, indebtedness, liabilities, settlements and expenses (including, without limitation, court costs, attorneys’ fees and expenses, costs of investigation, expert witness fees, taxes and penalties) arising out of any action or inaction of Arena; provided, that such claims, losses, costs, indebtedness, liabilities, settlements and expenses are not a result of Arena’s violation of the Standard of Care.

Notwithstanding the foregoing, the U.S. federal and state securities laws may impose liabilities under certain circumstances on persons who act in good faith and, therefore, nothing in any relevant client agreement will be deemed to waive or limit any rights that a client may have under those laws in such circumstances.

### **ITEM 13. REVIEW OF ACCOUNTS**

Arena performs periodic reviews of each of its client's respective portfolios. Such reviews are conducted by Arena's senior management. Investors in the funds managed by Arena will generally receive month-end unaudited performance data for the fund in which they are invested. Generally, on an annual basis, each fund will prepare and mail to each investor, together with the report prepared by the fund's accountants, a financial report setting forth a balance sheet of each fund and a statement of its net profit or net loss (or net asset value in the case of an offshore fund), a statement of each investor's capital account (or net asset value in the case of an offshore fund) and the manner of its calculation. After the end of each fiscal year, each investor in a U.S.-domiciled fund will be furnished certain tax information for tax return preparation purposes. In addition, typically on a quarterly basis each fund investor will receive unaudited performance data and an investment commentary.

Separately managed accounts will receive monthly, quarterly and/or annual performance reports, the frequency and content of which are determined pursuant to each client's IMA with Arena.

#### *Content and Frequency of Account Reports to Clients*

Arena prepares periodic reports/letters to provide to its clients and/or clients' underlying investors, detailing the performance of such client's investments. As a general matter, such reports/letters are prepared and issued monthly and are subject to review by independent public accountants, which results in annual audited financial statements being produced for each such client. Managed accounts will generally receive reports with the same frequency as the private funds to which they relate. For additional information related to the types and frequency of reports provided to clients, please see the relevant Offering Documents or IMA, to the extent applicable.

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

Arena or the funds it advises may enter into contractual agreements with individuals and/or organizations (hereafter referred to as "agents") that solicit clients for Arena in compliance with applicable requirements. While the specific terms of each arrangement may differ, generally an agent's compensation would be based upon the value of assets of the referred clients managed by Arena or investors who invest in the funds managed by Arena. As disclosed to the client or investor, the agent's compensation may or may not increase the referred client's or investor's fees beyond that which Arena (or the funds) would otherwise charge the client or investor for investment management or other services.

Arena will benefit from arrangements where clients are referred directly to it and investors are referred directly to the funds, since Arena's Management Fees are generally based upon a percentage of such client's or such investor's assets under management. Thus, the more assets Arena has under management, the higher its fee income. For further details regarding economic benefits provided to Arena by non-clients, please see Item 11 above.

#### **ITEM 15. CUSTODY**

Although it does not have physical custody of fund assets, Arena has "custody," as defined in Rule 206(4)-2 of the Advisers Act (the "Custody Rule"), of the assets for each fund it advises and is subject to such Rule. Arena complies with the Custody Rule requirements by delivering audited financial statements to the investors in the Arena funds within the applicable required time frame. Arena does not have custody with respect to any separately managed account assets.

#### **ITEM 16. INVESTMENT DISCRETION**

Arena typically accepts discretionary investment management authority to manage securities accounts on behalf of clients, subject to the investment guidelines, limitations and restrictions set forth in the client's operative documents and Arena's internal policies and procedures.

As such, Arena's discretionary authority to manage its clients' accounts includes authority to make decisions with respect to which securities/investments are bought and sold, the amount and price of those securities/investments, the broker-dealer to be used for a particular transaction and the commissions paid. Arena may also, from time-to-time, accept certain limits on investment discretion for certain clients to comply with their own corporate governance requirements.

The extent of Arena's discretionary authority is set forth in the Offering Documents, including the Limited Partnership Agreement or IMA (or their equivalent) applicable to each client. This authority is conveyed by investors in the funds in their subscription agreements and by owners of separately managed accounts in the applicable IMA.

#### **ITEM 17. VOTING CLIENT SECURITIES**

In addition to proxy solicitations in connection with equity securities of traditional operating companies, proxy voting is also deemed to include any consent requested in matters such as bankruptcy or insolvency, covenant waivers in connection with debt, approvals regarding the restructuring of debt and other rights and remedies with respect to securities. Arena has voting authority and responsibility with respect to securities held

by its fund clients and has therefore adopted policies and procedures related to voting client securities on behalf of its clients. The general policy of Arena is to vote proposals, as well as 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 its client. In determining how to vote such proxies, Arena may take into account factors such as: (i) the impact on the value of the investments; (ii) the anticipated associated costs and benefits; (iii) the continued or increased availability of portfolio information; (iv) industry and business practices; and (v) the degree to which client interests are aligned with those of an issuer's management.

In some circumstances, Arena will refrain from voting client securities where Arena believes, among other reasons, that voting would be inappropriate, taking into consideration the cost of voting, the anticipated benefit to the client, whether Arena's client continues to hold the securities on the voting date, or where the portfolio manager believes that resolution of the proposal is not relevant to the value of the investment. In instances where a client, e.g., a separately managed account, has reserved to itself the right to vote regarding its securities, Arena will not participate in the voting of such securities.

It is possible for conflicts of interest to arise among clients, Arena and/or Arena's affiliates in the context of Arena's voting of client securities. In case of a conflict, the CCO, together with external legal counsel if necessary, would be involved in the process regarding the voting of the client securities to help manage and mitigate such conflicts of interest.

A copy of Arena's policies and procedures regarding the voting of client securities can be obtained upon request.

## **ITEM 18. FINANCIAL INFORMATION**

Arena is not required to include a balance sheet for its most recent fiscal year, is not aware of any financial condition reasonably likely to impair its ability to meet contractual commitments to clients, and has not been the subject of a bankruptcy petition at any time during the past 10 years.