

**Item 1: Cover Page**

**Part 2A of Form ADV  
Firm Brochure**

January 15, 2016

**Orchard Capital Management, LLC**

SEC File No. 801-106488

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This brochure provides information about the qualifications and business practices of Orchard Capital Management, LLC. If you have any questions about the contents of this brochure, please contact us at 312-628-6700. 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. Registration with the SEC or state regulatory authority does not imply a certain level of skill or expertise.

Additional information about Orchard Capital Management, LLC is also available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **Item 2: Material Changes**

This Firm Brochure is our disclosure document prepared according to regulatory requirements and rules.

Effective November 1, 2015, the firm moved its office from 221 N. LaSalle, 32nd Floor, Chicago, IL 60601 to 400 N. Michigan Avenue, #560, Chicago, IL 60611.

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## Item 4: Advisory Business

### A. Orchard Capital Management, LLC

Orchard Capital Management, LLC ("Orchard Capital", "Orchard" and/or "the firm") is an Illinois limited liability company. The firm is owned by Blake Harper, Joshua Fairbank, and Michael Valencia. Orchard Capital is a newly formed investment advisor.

### B. Advisory Services Offered

#### B.1. Discretionary Asset Management Services

Orchard Capital seeks to manage its client portfolios primarily on a discretionary basis, for which Orchard Capital receives a limited power of attorney to effect securities transactions on behalf of its clients that include securities and strategies described in Item 8 of this brochure. The firm also has discretionary authority to select and retain outside investment managers.

Unless a client notifies Orchard Capital in writing of specific objectives or restrictions, accounts will reflect a model portfolio that is predicated on the client's investment objectives, goals, tolerance for risk, and other personal and financial circumstances.

Orchard Capital's investment advisory services to clients take into account a client's personal financial circumstances, investment objectives and tolerance for risk. Orchard Capital's engagement with a client will include, as appropriate, the following:

- Providing assistance in reviewing the client's current investment portfolio against the client's personal and financial circumstances as disclosed to Orchard Capital in response to a questionnaire and/or in discussions with the client and reviewed in meetings with Orchard Capital.
- Analyzing the client's financial circumstances, investment holdings and strategy, and goals.
- Providing assistance in identifying an appropriate model portfolio.
- Reporting to the client on a quarterly basis as agreed upon with the client, information on contributions and withdrawals in the client's investment portfolio, and the performance of the client's portfolio measured against appropriate benchmarks (including benchmarks selected by the client).
- Proposing changes in the client's investment portfolio in consideration of changes in the client's personal circumstances, investment objectives and tolerance for risk.

In addition to providing Orchard Capital with information regarding their personal financial circumstances, investment objectives and tolerance for risk, clients are required to provide the firm with any reasonable investment restrictions that should be imposed on the management of their portfolio, and to promptly notify the firm of any changes in such restrictions or in the client's personal financial circumstances, investment objectives, goals and tolerance for risk. Orchard Capital will remind clients of their obligation to inform the firm of any such changes or any restrictions that should be imposed on the management of the client's account. Orchard

Capital will also contact clients at least annually to determine whether there have been any changes in a client's personal financial circumstances, investment objectives and tolerance for risk.

### **B.2. Integrated Planning and Personal Financial Advisory Services**

For certain clients (primarily family office and related entities), Orchard Capital agrees to assess the client's current financial condition, review the client's investment goals and objectives and prepare an integrated financial plan that may include

- An Investment Policy Statement and asset allocation recommendations for consideration by the client
- Goal planning and goal assessment in the context of long-term financial and related plans
- Financial and performance reporting and updates on assets data provided by the client

Orchard Capital will prepare periodic updates with respect to investment allocation, financial planning and financial reporting on a quarterly, semi-annual or annual basis (as selected by the client) and at the specific request of the client. The client is under no obligation to implement any recommendations of Orchard Capital, and the client understands that it will be responsible for all decisions with respect to implementation. The client may from time to time authorize Orchard Capital to execute non-discretionary transactions on behalf of the client. Telephone calls to Orchard Capital may be recorded for data verification, and the client consents to such recording.

### **B.3. Family Office and Specialized Services**

If requested by the client, Orchard Capital will perform other services on a fee-for-service basis. These may include the following:

- Specialized Investment Services – Investment due diligence, illiquid investment tracking and third-party services sourcing.
- Estate Planning and/or Coordination Services – Review of existing estate planning strategies, assessment of current estate plan with established goals, integration of asset placement and allocation with long-term plans and coordination and/or sourcing of specialized providers of estate-related services (i.e., legal counsel, tax counsel, specialized structures, etc.).
  - Incremental planning, expense management, concierge, financial or other services.
- Recommending separate account managers, each matched to the asset categories in the client's targeted asset allocation for consideration by the client.
- Other ancillary services as needed and agreed by the client and Orchard Capital, including but not limited to philanthropy coordination and/or research, wealth transition, business succession and business planning services.

#### **B.4. Affiliate Asset Management Services**

Orchard Capital will operate a mutual fund that is registered under the Investment Company Act of 1940 ("ICA Act") known as the Orchard Small Cap Value Fund. In addition, the firm will manage a private fund. Advisory clients of Orchard Capital may hold interests in one or both of these securities, which may represent a conflict of interest in that the firm will be receiving management fees for both funds and performance-based compensation for the private fund. Important information for the registered fund is detailed in its prospectus and statement of additional information. For the private fund please refer to the fund's confidential offering materials.

#### **C. Client-Tailored Services and Client-Imposed Restrictions**

Other than those accounts that invest in one or more Orchard Capital model portfolios, the client's account will be managed on the basis of the client's financial situation and investment objectives. Reasonable restrictions may be imposed by the client on the management of any account—for example, restricting the type or amount of security to be purchased in the portfolio.

#### **D. Wrap Fee Programs**

Orchard Capital does not participate in wrap fee programs. (Wrap fee programs offer services for one all-inclusive fee.)

#### **E. Client Assets Under Management**

As of December 31, 2015, Orchard Capital has \$1.185 billion in assets under management.

## Item 5: Fees and Compensation

### A. Methods of Compensation and Fee Schedule

#### A.1. Discretionary Asset Management Fees

Orchard Capital's fee asset-based fees are calculated as a percentage of the value of the managed assets. Many factors determine proposed fee rates, including the size, complexity, and composition of the account. While fees are negotiable based on these factors, generally, investment advisory fees will not exceed 2.0%.

Asset-based fees are always subject to the investment advisory agreement between the client and Orchard Capital. Such fees are payable quarterly in advance. The fees will be prorated if the investment advisory relationship commences otherwise than at the beginning of a calendar month. Adjustments for significant contributions to a client's portfolio are prorated for the quarter in which the change occurs; no adjustments will be made for withdrawals.

The client authorizes the qualified custodian to automatically deduct the fee and all other charges payable hereunder from the assets in the account when due with such payments to be reflected on the next account statement sent to the client. If insufficient cash is available to pay such fees, securities in an amount equal to the balance of unpaid fees will be liquidated to pay for the unpaid balance. Orchard Capital may modify the fee at any time upon mutual agreement with the client by execution of a new schedule of fees. In the event the client has an ERISA-governed plan, fee modifications must be approved in writing by the client.

A client investment advisory agreement may be canceled by either party with 30 days' prior written notice. Upon termination, any unearned, prepaid fees will be promptly refunded. The client has the right to terminate an agreement without penalty within five business days after entering into the agreement.

##### A.1.a. Orchard Small Cap Value Fund

The Orchard Small Cap Value Fund is a series of Northern Lights Fund Trust II, a Delaware statutory trust, organized on August 26, 2010. Investment advisory services are provided to the fund by Orchard Capital Management. The fund is a diversified series of the trust. The fund's investment objective, restrictions, policies and fees (including performance-based fees) are described in the fund's confidential offering materials.

##### A.1.b. Orchard's Proprietary Private Fund

Orchard's proprietary private fund is a recently organized Delaware limited liability company whose investment objective is to achieve higher than average absolute returns using an activist/catalyst-driven approach to intrinsic small-cap value investing.



**A.2. Financial Planning Fees**

Financial planning services are provided to existing asset management clients. Such services are included as part of the firm's asset based investment advisory fee. The firm does not accept standalone financial planning engagements.

**A.3. Family Office Fees**

Family Office Services will be based on time and type of service being requested. Such engagement will be negotiated on a case-by-case basis and will be memorialized in a separate agreement between Orchard Capital and the client. Upon termination, any unearned, prepaid fees will be promptly refunded, and any earned, unpaid fees will be due and payable.

**A.4. Affiliate Fees**

Orchard Capital will manage the Orchard Small Cap Value Fund. In addition, the firm will manage a private fund. Advisory clients of Orchard Capital may hold interests in one or both of these securities, which may represent a conflict of interest in that the firm will be receiving management fees for both funds and performance-based compensation for the private fund. A description of the fees is detailed in the respective fund prospectus and SAI for the registered fund, and in the confidential offering materials for the private fund. Orchard Capital's selection or recommendation of one or both of these funds creates an economic incentive for the firm to either utilize or recommend these securities for client advisory portfolios. Please refer to Items 6, 10.C. and 11 of this brochure for additional conflict disclosure.

**B. Client Payment of Fees**

Orchard Capital requires clients to authorize the direct debit of fees from their accounts. Exceptions may be granted subject to the firm's consent for clients to be billed directly for our fees. For directly debited fees, the custodian's periodic statements will show each fee deduction from the account. Clients may withdraw this authorization for direct billing of these fees at any time by notifying us or their custodian in writing.

Orchard Capital will deduct advisory fees directly from the client's account provided that (i) the client provides written authorization to the qualified custodian, and (ii) the qualified custodian sends the client a statement, at least quarterly, indicating all amounts disbursed from the account.

The client is responsible for verifying the accuracy of the fee calculation, as the client's custodian will not verify the calculation.

**C. Additional Client Fees Charged**

All fees paid for investment advisory services are separate and distinct from the fees and expenses charged by exchange-traded funds, third-party and affiliate mutual funds, separate account managers, third-party or affiliate private funds, pooled investment vehicles, broker-dealers, and custodians retained by clients. Such fees and expenses are described in each

exchange-traded fund and mutual fund's prospectus, each separate account manager's Form ADV and Brochure and Brochure Supplement or similar disclosure statement, each private placement or pooled investment vehicle's confidential offering memoranda, and by any broker-dealer or custodian retained by the client. Clients are advised to read these materials carefully. If a mutual fund also imposes sales charges, a client may pay an initial or deferred sales charge as further described in the mutual fund's prospectus. A client using Orchard Capital may be precluded from using certain mutual funds or separate account managers because they may not be offered by the client's custodian.

Please refer to the Brokerage Practices section (Item 12) for additional information regarding the firm's brokerage practices.

#### **D. Prepayment of Client Fees**

Orchard Capital generally requires its asset management fees to be prepaid on a quarterly basis. Orchard Capital's fees will either be paid directly by the client or disbursed to Orchard Capital by the qualified custodian of the client's investment accounts, subject to prior written consent of the client. The custodian will deliver directly to the client an account statement, at least quarterly, showing all investment and transaction activity for the period, including fee disbursements from the account.

A client investment advisory agreement may be canceled by either party with 30 days' prior written notice. Upon termination, any unearned, prepaid fees will be promptly refunded. The client has the right to terminate an agreement without penalty within five business days after entering into the agreement.

#### **E. External Compensation for the Sale of Securities to Clients**

Orchard Capital advisory professionals are compensated primarily through a salary and bonus structure. The firm or its affiliates may be paid management fees for advising separately managed account clients, its proprietary registered fund, and its proprietary private fund. In addition, Orchard may receive performance-based fees for asset management services to its private fund. Please refer to Items 6, 10.C, and 11 for additional conflict disclosure.

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

The firm or its affiliates may be paid management fees for advising separately managed account clients, its proprietary registered fund, and its proprietary private fund. In addition, Orchard may receive performance-based fees for asset management services to its private fund. To the extent the adviser places client portfolio assets in the separately managed account, or through one or both affiliate managed funds, the fee structures may vary and create an economic incentive for the firm to invest or recommend the product that best serves its economic interests versus those of its clients. In addition, Orchard Capital may charge performance-based fees to qualified investors who are defined under rule 205-3 of the Investment Advisers Act of 1940 for its proprietary private fund. Performance-based fees for the private fund are set forth in the fund's offering materials. Performance-based fees may create an incentive for the adviser to recommend or preference the private fund and take additional risks in managing the private fund's portfolio assets in order to create higher investment returns and therefore higher compensation to Orchard. Please review the fund offering document for additional risk disclosure.

Orchard Capital's registered fund pays an advisory fee to the fund's adviser (Orchard Capital) which is ultimately borne by fund shareholders. Orchard separately managed client assets may be invested in any U.S. Mutual Fund, whether Orchard-sponsored or not, and will be included in the calculation of Orchard's asset-based advisory fees. This means that Orchard's clients whose assets include the proprietary registered fund shares will pay two levels of advisory fees on all mutual fund assets. Investment company fees and expenses are set forth in the offering documents.

With respect to Orchard's investments or recommendations involving Orchard-sponsored funds, Orchard clients understand that:

- Orchard will receive an advisory fee directly from its separately managed accounts and indirectly from its advisory clients through their registered fund and private fund.
- The combined fees may be higher than the fees charged by other investment advisers for similar investment advisory services.
- Clients could invest directly in mutual funds without incurring any additional fees.
- Clients may structure their investment guidelines to minimize or eliminate possible conflicts of interest.
- Orchard believes that a client's investment in any affiliated mutual fund or private fund is in the client's best interest. Because Orchard bases its advisory fee on the value of the client's total portfolio, which may include Orchard-sponsored funds, Orchard may have a monetary incentive to recommend these funds. In addition, Orchard Capital may charge performance-based fees to qualified investors who are defined under rule 205-3 of the Investment Advisers Act of 1940 for its proprietary private fund.

Performance-based fees for the applicable fund are set forth in the fund's offering materials. Performance-based fees may create an incentive for the adviser of such funds to take additional risks in order to create higher investment returns and advisory fees. Please review the fund

offering document for additional risk disclosure. The firm may negotiate side-by-side management agreements with private fund clients that may create additional conflicts resulting from a negotiated minimum investment and fee arrangements, priority of investment allocations, and compensation of the applicable portfolio manager. Fee disparities in the three primary asset management products offered by the firm may create incentives to invest or recommend one product versus another and to allocate time and resources to a particular product versus another based upon compensation and economic incentives provided to the portfolio manager and/or firm. The firm manages these conflicts by recommending only those products that are suitable and appropriate for a particular investor based upon such investor's personal and financial circumstances, tolerance for risk, and investment objectives. In addition, the firm has adopted a Code of Ethics that contains policies and procedures that require the firm to place its clients' interests first with appropriate trade and holdings reporting and monitoring mechanisms in place. See Item 11 of this brochure for additional information on the firm's Code of Ethics.

## **Item 7: Types of Clients**

Orchard Capital offers its investment services to various types of clients including individuals, high net worth individuals, trusts, corporations, partnerships, corporate pension and profit sharing plans, foundations, and to its affiliate registered fund and private funds. See Items 6, 10.C, and 11 for additional conflict disclosure regarding the Orchard affiliate funds.

Orchard Capital generally requires a minimum account size of \$1m. Account minimums may be waived under the firm's discretion due to asset mix, client guidelines/restrictions or relationship.

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

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

Orchard Capital's investment strategies focus on value investing. Orchard Capital uses a variety of sources of data to conduct its economic, investment and market analysis, such as financial newspapers and magazines, economic and market research materials prepared by others, conference calls hosted by mutual funds, corporate rating services, annual reports, prospectuses, and company press releases. It is important to keep in mind that there is no specific approach to investing that guarantees success or positive returns; investing in securities involves risk of loss that clients should be prepared to bear.

Orchard Capital and its principals are responsible for identifying and implementing the methods of analysis used in formulating investment recommendations to clients. The methods of analysis may include quantitative methods for optimizing client portfolios, computer-based risk/return analysis, technical analysis, and statistical and/or computer models utilizing long-term economic criteria.

- Optimization involves the use of mathematical algorithms to determine the appropriate mix of assets given the firm's current capital market rate assessment and a particular client's risk tolerance.
- Quantitative methods include analysis of historical data such as price and volume statistics, performance data, standard deviation and related risk metrics, how the security performs relative to the overall stock market, earnings data, price to earnings ratios, and related data.
- Technical analysis involves charting price and volume data as reported by the exchange where the security is traded to look for price trends.
- Computer models may be used to derive the future value of a security based on assumptions of various data categories such as earnings, cash flow, profit margins, sales, and a variety of other company specific metrics.

In addition, Orchard Capital reviews research material prepared by others, as well as corporate filings, corporate rating services, and a variety of financial publications. Orchard Capital may employ outside vendors or utilize third-party software to assist in formulating investment recommendations to clients.

### **Risk of Loss**

Investing in securities involves an inherent risk of loss that clients should be prepared to bear. Some general risks include those relating to securities and market volatility, investor sentiment, political and economic events, possible sustained periods of adverse securities market performance, and interest and currency rate fluctuations.

### **A.1. Individual Securities, Third-Party Separate Account Managers, and Pooled Investment Vehicles**

Orchard Capital may recommend individual securities (including fixed income instruments) and pooled investment vehicles. Orchard Capital may also assist the client in selecting one or more appropriate manager(s) for all or a portion of the client's investment portfolio. Such managers will typically manage assets for clients who commit to the manager a minimum amount of assets established by that manager—a factor that Orchard Capital will take into account when recommending managers to clients.

A description of the criteria to be used in formulating an investment recommendation for individual securities (including fixed-income securities), managers, and pooled investment vehicles is set forth below.

Orchard Capital has formed relationships with third-party vendors that

- provide a technological platform for separate account management
- prepare performance reports
- perform or distribute research of individual securities
- perform billing and certain other administrative tasks

Orchard Capital may utilize additional independent third parties to assist it in recommending and monitoring individual securities, mutual funds, managers and pooled investment vehicles to clients as appropriate under the circumstances.

Orchard Capital reviews certain quantitative and qualitative criteria in formulating its investment recommendations to clients. Quantitative criteria may include

- the performance history of a fund or manager evaluated against that of its peers and other benchmarks
- an analysis of risk-adjusted returns
- an analysis of the manager's contribution to the investment return (e.g., manager's alpha), standard deviation of returns over specific time periods, sector and style analysis
- the fund, sub-advisor or manager's fee structure
- the relevant portfolio manager's tenure

Qualitative criteria used in recommending mutual funds or managers include the investment objectives and/or management style and philosophy of a fund or manager; a fund or manager's consistency of investment style; and employee turnover and efficiency and capacity.

### **A.2. Material Risks of Investment Instruments**

Orchard Capital typically invests in a wide array of publicly traded securities. Orchard Capital generally effects transactions in the following types of securities:

- Equity securities
- Warrants and rights
- Mutual fund securities

- Exchange-traded funds
- Fixed income securities
- Corporate debt securities, commercial paper, and certificates of deposit
- Municipal securities
- U.S. government securities
- Private placements
- Pooled investment vehicles
- Structured products
- Corporate debt obligations

#### **A.2.a. Equity Securities**

Investing in individual companies involves inherent risk. The major risks relate to the company's capitalization, quality of the company's management, quality and cost of the company's services, the company's ability to manage costs, efficiencies in the manufacturing or service delivery process, management of litigation risk, and the company's ability to create shareholder value (i.e., increase the value of the company's stock price). Foreign securities, in addition to the general risks of equity securities, have geopolitical risk, financial transparency risk, currency risk, regulatory risk and liquidity risk.

#### **A.2.b. Warrants and Rights**

Warrants are securities, typically issued with preferred stock or bonds that give the holder the right to purchase a given number of shares of common stock at a specified price and time. The price of the warrant usually represents a premium over the applicable market value of the common stock at the time of the warrant's issuance. Warrants have no voting rights with respect to the common stock, receive no dividends and have no rights with respect to the assets of the issuer.

Investments in warrants and rights involve certain risks, including the possible lack of a liquid market for the resale of the warrants and rights, potential price fluctuations due to adverse market conditions or other factors and failure of the price of the common stock to rise. If the warrant is not exercised within the specified time period, it becomes worthless.

#### **A.2.c. Mutual Fund Securities**

Investing in mutual funds carries inherent risk. The major risks of investing in a mutual fund include the quality and experience of the portfolio management team and its ability to create fund value by investing in securities that have positive growth, the amount of individual company diversification, the type and amount of industry diversification, and the type and amount of sector diversification within specific industries. In addition, mutual funds tend to be tax inefficient and therefore investors may pay capital gains taxes on fund investments while not having yet sold the fund.



#### **A.2.d. Exchange-Traded Funds ("ETFs")**

ETFs are investment companies whose shares are bought and sold on a securities exchange. An ETF holds a portfolio of securities designed to track a particular market segment or index. Some examples of ETFs are SPDRs<sup>®</sup>, streetTRACKS<sup>®</sup>, DIAMONDS<sup>SM</sup>, NASDAQ 100 Index Tracking Stock<sup>SM</sup> ("QQQs<sup>SM</sup>") iShares<sup>®</sup> and VIPERs<sup>®</sup>. The funds could purchase an ETF to gain exposure to a portion of the U.S. or foreign market. The funds, as a shareholder of another investment company, will bear their pro-rata portion of the other investment company's advisory fee and other expenses, in addition to their own expenses.

Investing in ETFs involves risk. Specifically, ETFs, depending on the underlying portfolio and its size, can have wide price (bid and ask) spreads, thus diluting or negating any upward price movement of the ETF or enhancing any downward price movement. Also, ETFs require more frequent portfolio reporting by regulators and are thereby more susceptible to actions by hedge funds that could have a negative impact on the price of the ETF. Certain ETFs may employ leverage, which creates additional volatility and price risk depending on the amount of leverage utilized, the collateral and the liquidity of the supporting collateral.

Further, the use of leverage (i.e., employing the use of margin) generally results in additional interest costs to the ETF. Certain ETFs are highly leveraged and therefore have additional volatility and liquidity risk. Volatility and liquidity can severely and negatively impact the price of the ETF's underlying portfolio securities, thereby causing significant price fluctuations of the ETF.

#### **A.2.e. Fixed Income Securities**

Fixed income securities carry additional risks than those of equity securities described above. These risks include the company's ability to retire its debt at maturity, the current interest rate environment, the coupon interest rate promised to bondholders, legal constraints, jurisdictional risk (U.S or foreign) and currency risk. If bonds have maturities of ten years or greater, they will likely have greater price swings when interest rates move up or down. The shorter the maturity the less volatile the price swings. Foreign bonds have liquidity and currency risk.

#### **A.2.f. Corporate Debt, Commercial Paper and Certificates of Deposit**

Fixed income securities carry additional risks than those of equity securities described above. These risks include the company's ability to retire its debt at maturity, the current interest rate environment, the coupon interest rate promised to bondholders, legal constraints, jurisdictional risk (U.S or foreign) and currency risk. If bonds have maturities of ten years or greater, they will likely have greater price swings when interest rates move up or down. The shorter the maturity the less volatile the price swings. Foreign bonds also have liquidity and currency risk.

Commercial paper and certificates of deposit are generally considered safe instruments, although they are subject to the level of general interest rates, the credit quality of the issuing bank and the length of maturity. With respect to certificates of deposit, depending on the

length of maturity there can be prepayment penalties if the client needs to convert the certificate of deposit to cash prior to maturity.

#### **A.2.g. Municipal Securities**

Municipal securities carry additional risks than those of corporate and bank-sponsored debt securities described above. These risks include the municipality's ability to raise additional tax revenue or other revenue (in the event the bonds are revenue bonds) to pay interest on its debt and to retire its debt at maturity. Municipal bonds are generally tax free at the federal level, but may be taxable in individual states other than the state in which both the investor and municipal issuer is domiciled.

#### **A.2.h. U.S. Government Securities**

U.S. government securities include securities issued by the U.S. Treasury and by U.S. government agencies and instrumentalities. U.S. government securities may be supported by the full faith and credit of the United States.

#### **A.2.i. Private Placements**

Private placements carry significant risk in that companies using the private placement market conduct securities offerings that are exempt from registration under the federal securities laws, which means that investors do not have access to public information and such investors are not provided with the same amount of information that they would receive if the securities offering was a public offering. Moreover, many companies using private placements do so to raise equity capital in the start-up phase of their business, or require additional capital to complete another phase in their growth objective. In addition, the securities issued in connection with private placements are restricted securities, which means that they are not traded on a secondary market, such as a stock exchange, and they are thus illiquid and cannot be readily converted to cash.

#### **A.2.j. Pooled Investment Vehicles**

A pooled investment vehicle, such as a commodity pool or investment company, is generally offered only to investors who meet specified suitability, net worth and annual income criteria. Pooled investment vehicles sell securities through private placements and thus are illiquid and subject to a variety of risks that are disclosed in each pooled investment vehicle's confidential private placement memorandum or disclosure document. Investors should read these documents carefully and consult with their professional advisors prior to committing investment dollars. Because many of the securities involved in pooled investment vehicles do not have transparent trading markets from which accurate and current pricing information can be derived, or in the case of private equity investments where portfolio security companies are privately held with no publicly traded market, the firm will be unable to monitor or verify the accuracy of such performance information.

### **A.2.k. Structured Products**

Structured products are designed to facilitate highly customized risk-return objectives. While structured products come in many different forms, they typically consist of a debt security that is structured to make interest and principal payments based upon various assets, rates or formulas. Many structured products include an embedded derivative component. Structured products may be structured in the form of a security, in which case these products may receive benefits provided under federal securities law, or they may be cast as derivatives, in which case they are offered in the over-the-counter market and are subject to no regulation.

Investment in structured products includes significant risks, including valuation, liquidity, price, credit and market risks. One common risk associated with structured products is a relative lack of liquidity due to the highly customized nature of the investment. Moreover, the full extent of returns from the complex performance features is often not realized until maturity. As such, structured products tend to be more of a buy-and-hold investment decision rather than a means of getting in and out of a position with speed and efficiency.

Another risk with structured products is the credit quality of the issuer. Although the cash flows are derived from other sources, the products themselves are legally considered to be the issuing financial institution's liabilities. The vast majority of structured products are from high investment grade issuers only. Also, there is a lack of pricing transparency. There is no uniform standard for pricing, making it harder to compare the net-of-pricing attractiveness of alternative structured product offerings than it is, for instance, to compare the net expense ratios of different mutual funds or commissions among broker-dealers.

### **A.2.l. Corporate Debt Obligations**

Corporate debt obligations include corporate bonds, debentures, notes, commercial paper and other similar corporate debt instruments. Companies use these instruments to borrow money from investors. The issuer pays the investor a fixed or variable rate of interest and must repay the amount borrowed at maturity. Commercial paper (short-term unsecured promissory notes) is issued by companies to finance their current obligations and normally has a maturity of less than nine months. In addition, the firm may also invest in corporate debt securities registered and sold in the United States by foreign issuers (Yankee bonds) and those sold outside the U.S. by foreign or U.S. issuers (Eurobonds).

## **B. Investment Strategy and Method of Analysis Material Risks**

Our investment strategy is custom-tailored to the client's goals, investment objectives, risk tolerance, and personal and financial circumstances.

### **B.1. Margin Leverage**

Although Orchard Capital, as a general business practice, does not utilize leverage, there may be instances in which exchange-traded funds, other separate account managers and, in very limited circumstances, Orchard Capital will utilize leverage. In this regard please review the following:

The use of margin leverage enhances the overall risk of investment gain and loss to the client's investment portfolio. For example, investors are able to control \$2 of a security for \$1. So if the price of a security rises by \$1, the investor earns a 100% return on their investment. Conversely, if the security declines by \$.50, then the investor loses 50% of their investment.

The use of margin leverage entails borrowing, which results in additional interest costs to the investor.

Broker-dealers who carry customer accounts require a minimum equity requirement when clients utilize margin leverage. The minimum equity requirement is stated as a percentage of the value of the underlying collateral security with an absolute minimum dollar requirement. For example, if the price of a security declines in value to the point where the excess equity used to satisfy the minimum requirement dissipates, the broker-dealer will require the client to deposit additional collateral to the account in the form of cash or marketable securities. A deposit of securities to the account will require a larger deposit, as the security being deposited is included in the computation of the minimum equity requirement. In addition, when leverage is utilized and the client needs to withdraw cash, the client must sell a disproportionate amount of collateral securities to release enough cash to satisfy the withdrawal amount based upon similar reasoning as cited above.

Regulations concerning the use of margin leverage are established by the Federal Reserve Board and vary if the client's account is held at a broker-dealer versus a bank custodian. Broker-dealers and bank custodians may apply more stringent rules as they deem necessary.

### **B.2. Short-Term Trading**

Although Orchard Capital, as a general business practice, does not utilize short-term trading, there may be instances in which short-term trading may be necessary or an appropriate strategy. In this regard, please read the following:

There is an inherent risk for clients who trade frequently in that high-frequency trading creates substantial transaction costs that in the aggregate could negatively impact account performance.

### **B.3. Short Selling**

Orchard Capital generally may engage in short selling in the exercise of its sole judgment. Short selling involves the sale of a security that is borrowed rather than owned. When a short sale is effected, the investor is expecting the price of the security to decline in value so that a purchase or closeout of the short sale can be effected at a significantly lower price. The primary risks of effecting short sales is the availability to borrow the stock, the unlimited potential for loss, and the requirement to fund any difference between the short credit balance and the market value of the security.

### **B.4. Technical Trading Models**

Although the firm's investment advice is predicated on fundamental analysis the firm may use technical trading data as a supplement to its fundamental research. As such please be advised:

Technical trading models are mathematically driven based upon historical data and trends of domestic and foreign market trading activity, including various industry and sector trading statistics within such markets. Technical trading models, through mathematical algorithms, attempt to identify when markets are likely to increase or decrease and identify appropriate entry and exit points. The primary risk of technical trading models is that historical trends and past performance cannot predict future trends, and there is no assurance that the mathematical algorithms employed are designed properly, updated with new data, and can accurately predict future market, industry, and sector performance.

### **B.5. Option Strategies**

Various option strategies give the holder the right to acquire or sell underlying securities at the contract strike price up until expiration of the option. Each contract is worth 100 shares of the underlying security. Options entail greater risk but allow an investor to have market exposure to a particular security or group of securities without the capital commitment required to purchase the underlying security or groups of securities. In addition, options allow investors to hedge security positions held in the portfolio. For detailed information on the use of options and option strategies, please contact the Options Clearing Corporation for the current Options Risk Disclosure Statement.

Orchard Capital as part of its investment strategy may employ the following option strategies:

- Covered call writing
- Long call options purchases
- Long put options purchases
- Option spreading
- Short call option strategy
- Short put option strategy
- Equity collars
- Long straddles

#### **B.5.a. Covered Call Writing**

Covered call writing is the sale of in-, at-, or out-of-the-money call option against a long security position held in the client portfolio. This type of transaction is used to generate income. It also serves to create downside protection in the event the security position declines in value. Income is received from the proceeds of the option sale. Such income may be reduced to the extent it is necessary to buy back the option position prior to its expiration. This strategy may involve a degree of trading velocity, transaction costs and significant losses if the underlying security has volatile price movement. Covered call strategies are generally suited for companies with little price volatility.

#### **B.5.b. Long Call Option Purchases**

Long call option purchases allow the option holder to be exposed to the general market characteristics of a security without the outlay of capital necessary to own the security. Options

are wasting assets and expire (usually within nine months of issuance), and as a result can expose the investor to significant loss.

#### **B.5.c. Long Put Option Purchases**

Long put option purchases allow the option holder to sell or “put” the underlying security at the contract strike price at a future date. If the price of the underlying security declines in value, the value of the long put option increases. In this way long puts are often used to hedge a long stock position. Options are wasting assets and expire (usually within nine months of issuance), and as a result can expose the investor to significant loss.

#### **B.5.d. Option Spreading**

Option spreading usually involves the purchase of a call option and the sale of a call option at a higher contract strike price, both having the same expiration month. The purpose of this type of transaction is to allow the holder to be exposed to the general market characteristics of a security without the outlay of capital to own the security, and to offset the cost by selling the call option with a higher contract strike price. In this type of transaction, the spread holder “locks in” a maximum profit, defined as the difference in contract prices reduced by the net cost of implementing the spread. There are many variations of option spreading strategies; please contact the Options Clearing Corporation for a current Options Risk Disclosure Statement that discusses each of these strategies.

#### **B.5.e. Short Call Option Strategy**

Short call option strategy is highly speculative and has theoretical potential for unlimited loss. The seller (writer) of the call option receives proceeds (premium) from the sale of the option. The expectation is that the value of the underlying security will remain below the contract strike price and the option will expire worthless, allowing the option writer to keep the entire amount of the sale proceeds (premium). Should the value of the underlying security increase above the contract strike price, then the option writer can either purchase the call option at a loss, or through a process of exercise and assignment be forced to sell the stock at the contract strike price. If this happens, the option writer will have to go in the open market and buy an equivalent amount of stock to cover the sale at prices that can be materially higher than the amount received from the sale.

#### **B.5.f. Short Put Option Strategy**

Short put option strategy is highly speculative and has theoretical potential for significant loss. The seller (writer) of the put option receives proceeds (premium) from the sale of the option. The expectation is that the value of the underlying security will remain above the contract strike price and the option will expire worthless, allowing the option writer to keep the entire amount of the sale proceeds (premium). Should the value of the underlying security decrease below the contract strike price, the option writer can either purchase the put option at a loss, or through a process of exercise and assignment be forced to buy the stock at the contract strike price. If this happens, the option writer will be purchasing the underlying security at a

price potentially well above its then-current market value, exposing the investor to potential loss.

#### **B.5.g. Equity Collar**

A collar combines both a cap and a floor. A cap gives the purchaser of the cap the right (for a premium payment), but not the obligation, to receive the difference in the cost on some amount when a specified index rises above the specified "cap rate." A floor is the opposite of a cap—it gives the purchaser of the floor the right (for a premium payment), but not the obligation, to receive the difference in interest payable on an amount when a specified index falls below the specified "floor rate." A collar involving stock is called an "equity collar." In a collar transaction, the buyer of the collar purchases a cap while selling a floor indexed to the same rate or asset. A zero-cost collar results when the premium earned by selling a floor exactly offsets the cap premium.

#### **B.5.h. Long Straddle**

A long straddle is the purchase of a long call and a long put with the same underlying security, expiration date and strike price. This is a speculative trade that may be profitable when volatility is high and will result in a loss when prices of the underlying security are relatively stable.

### **C. Security-Specific Material Risks**

There is an inherent risk for clients who have their investment portfolios heavily weighted in one security, one industry or industry sector, one geographic location, one investment manager, one type of investment instrument (equities versus fixed income). Clients who have diversified portfolios, as a general rule, incur less volatility and therefore less fluctuation in portfolio value than those who have concentrated holdings. Concentrated holdings may offer the potential for higher gain, but also offer the potential for significant loss.

## **Item 9: Disciplinary Information**

### **A. Criminal or Civil Actions**

There is nothing to report on this item.

### **B. Administrative Enforcement Proceedings**

There is nothing to report on this item.

### **C. Self-Regulatory Organization Enforcement Proceedings**

There is nothing to report on this item.



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

### **A. Broker-Dealer or Representative Registration**

Neither Orchard Capital nor its affiliates, employees, or independent contractors are registered broker-dealers and do not have an application to register pending.

### **B. Futures or Commodity Registration**

Neither Orchard Capital nor its affiliates are registered as a commodity firm, futures commission merchant, commodity pool operator or commodity trading advisor and do not have an application to register pending.

### **C. Material Relationships Maintained by this Advisory Business and Conflicts of Interest**

The firm or its affiliates may be paid management fees for advising separately managed account clients, its proprietary registered and unregistered funds, third-party private funds, or direct private equity investments. In addition, Orchard Capital may either receive performance-based fees or have an economic interest in such entities. Please be advised that these arrangements raise potential conflicts of interest concerns in that one may view our recommendations as being in Orchard Capital's best interest versus those of the client. Although the firm strives to place its clients' interests first, clients should be aware of these conflicts. The firm manages these conflicts by recommending only those products that are suitable and appropriate for a particular investor based upon such investor's personal and financial circumstances, tolerance for risk, and investment objectives. In addition, the firm has adopted policies and procedures regarding trade allocation and aggregation as well as a Code of Ethics that contains policies and procedures requiring the firm and its employees to place its clients' interests first with appropriate transaction and holdings reporting, trade monitoring, and related procedures to address potential conflict of interest issues. See Item 11 of this brochure for additional disclosure.

#### **C.1. Redwood Partners, LLC**

Blake E. Harper has a minority ownership interest in Redwood Partners, LLC, which serves as a General Partner to Redwood Partners, L.P. Blake also provides consulting services to Redwood Partners, LLC with regard to equities in the financial sector.

#### **C.2. Redwood I Company, LLC**

Blake E. Harper is a Member of Redwood I Company, LLC, which is the General Partner for Redwood Partners, LP.

### **C.3. Orchard Small Cap Value Fund**

The Orchard Small Cap Value Fund (the “Registered Fund”) is a series of Northern Lights Fund Trust II (the “Trust”), a Delaware statutory trust, organized on August 26, 2010. Investment advisory services are provided to the Registered Fund by Orchard Capital Management.

The Fund is a diversified series of the Trust. The Registered Fund’s investment objective, restrictions and policies are more fully described in the Prospectus and Statement of Additional Information. The Board may add classes to and reclassify the shares of the Registered Fund, start other series, and offer shares of a new fund under the Trust at any time.

### **C.4. Orchard Catalytic Fund, LLC**

Orchard Catalytic Fund, LLC (the “Private Fund”) is a recently organized Delaware limited liability company whose investment objective is to achieve higher than average absolute returns using an activist/catalyst-driven approach to intrinsic small-cap value investing.

### **C.5. Orchard Cap Partners, LLC**

Orchard Cap Partners, LLC is a Delaware limited liability that will serve as the manager of the Fund (the “Manager”).

### **C.6. Millenium Wealth Management**

Blake E. Harper serves on the advisory board in a non-fiduciary role for Millenium Wealth Management, a non-discretionary investment manager.

### **C.7. Affiliate LLCs**

The following entities are affiliates of Orchard Capital for which Blake E. Harper serves as a Manager and/or Member:

- Harper Family Investments, LLC manages investments via Orchard Capital Management.
- Harper Investment Management, LLC, Harper Family Enterprises, LLC, and TRCM, LLC are real estate holdings.
- OCM Partners, LLC holds membership interests in Orchard Capital.
- Adaptive Capital Strategies, LLC & LaSalle-Wacker, LLC are family investment LLCs.
- Forestview Wealth Management, LLC owns historical records that are granted to Orchard Capital through TRCM, LLC.

## **D. Recommendation or Selection of Other Investment Advisors and Conflicts of Interest**

Although Orchard Capital does not engage solicitors, its affiliate may engage a distributor to market the Orchard Small Cap Value Fund for which the distributor will receive compensation.

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

### **A. Code of Ethics Description**

In accordance with the Advisers Act, Orchard Capital has adopted policies and procedures designed to detect and prevent insider trading. In addition, Orchard Capital has adopted a Code of Ethics (the "Code"). Among other things, the Code includes written procedures governing the conduct of Orchard Capital's advisory and access persons. The Code also imposes certain reporting obligations on persons subject to the Code. The Code and applicable securities transactions are monitored by the chief compliance officer of Orchard Capital. Orchard Capital will send clients a copy of its Code of Ethics upon written request.

Orchard Capital has policies and procedures in place to ensure that the interests of its clients are given preference over those of Orchard Capital, its affiliates and its employees. For example, there are policies in place to prevent the misappropriation of material non-public information, and such other policies and procedures reasonably designed to comply with federal and state securities laws.

### **B. Investment Recommendations Involving a Material Financial Interest and Conflicts of Interest**

Orchard Capital does not engage in principal trading (i.e., the practice of selling stock to advisory clients from a firm's inventory or buying stocks from advisory clients into a firm's inventory). In addition, Orchard Capital does not recommend any securities to advisory clients in which it has some proprietary or ownership interest.

The firm or its affiliates may be paid management fees for advising separately managed account clients, its proprietary registered fund, and its proprietary private fund. In addition, Orchard may receive performance-based fees for asset management services to its private fund. Although the firm strives to place its clients' interests first, clients should be aware of these conflicts. The firm manages these conflicts by recommending only those products that are suitable and appropriate for a particular investor based upon such investor's personal and financial circumstances, tolerance for risk, and investment objectives. In addition, the firm has adopted policies and procedures regarding trade allocation and aggregation (see Item 12. Brokerage Practices) as well as a Code of Ethics that contains policies and procedures requiring the firm and its employees to place its clients' interests first with appropriate transaction and holdings reporting, trade monitoring, and related procedures to address potential conflict of interest issues.

Fee structures and disparities in the three primary asset management products offered by the firm may create incentives to invest or recommend one product versus another and to allocate time and resources to a particular product versus another based upon compensation and economic incentives provided to the portfolio manager and/or firm. The firm manages these conflicts by recommending only those products that are suitable and appropriate for a particular

investor based upon such investor's personal and financial circumstances, tolerance for risk, and investment objectives. In addition, the firm has policies and procedures that require the firm to place its clients' interests first with appropriate trade and holdings reporting, monitoring mechanisms, and conflict resolution practices in place.

### **C. Advisory Firm Purchase of Same Securities Recommended to Clients and Conflicts of Interest**

Orchard Capital, its affiliates, employees and their families, trusts, estates, charitable organizations and retirement plans established by it may purchase the same securities as are purchased for clients in accordance with its Code of Ethics policies and procedures. The personal securities transactions by advisory representatives and employees may raise potential conflicts of interest when they trade in a security that is:

- owned by the client, or
- considered for purchase or sale for the client.

Such conflict generally refers to the practice of front-running (trading ahead of the client), which Orchard Capital specifically prohibits. Orchard Capital has adopted policies and procedures that are intended to address these conflicts of interest. These policies and procedures:

- require our advisory representatives and employees to act in the client's best interest
- prohibit fraudulent conduct in connection with the trading of securities in a client account
- prohibit employees from personally benefitting by causing a client to act, or fail to act in making investment decisions
- prohibit the firm or its employees from profiting or causing others to profit on knowledge of completed or contemplated client transactions
- allocate investment opportunities in a fair and equitable manner
- provide for the review of transactions to discover and correct any trades that result in an advisory representative or employee benefitting at the expense of a client.

Advisory representatives and employees must follow Orchard Capital's procedures when purchasing or selling the same securities purchased or sold for the client.

### **D. Client Securities Recommendations or Trades and Concurrent Advisory Firm Securities Transactions and Conflicts of Interest**

Orchard Capital, its affiliates, employees and their families, trusts, estates, charitable organizations, and retirement plans established by it may effect securities transactions for their own accounts that differ from those recommended or effected for other Orchard Capital clients. Orchard Capital will make a reasonable attempt to trade securities in client accounts at or prior to trading the securities in its affiliate, corporate, employee or employee-related accounts. Trades executed the same day will likely be subject to an average pricing calculation (please

refer to Item 12.B.3 Order Aggregation). It is the policy of Orchard Capital to place the clients' interests above those of Orchard Capital and its employees.

## Item 12: Brokerage Practices

### A. Factors Used to Select Broker-Dealers for Client Transactions

#### A.1. Custodian Recommendations

Orchard Capital may recommend that clients establish brokerage accounts with ConvergeX Prime/Pershing, Fidelity, Charles Schwab & Co., and TD Ameritrade ("custodian"), FINRA registered broker-dealers, members SIPC, to maintain custody of clients' assets and to effect trades for their accounts. Although Orchard Capital may recommend that clients establish accounts at the custodian, it is the client's decision to custody assets with the custodian. Orchard Capital is independently owned and operated and not affiliated with any custodian. For Orchard Capital client accounts maintained in its custody, the custodian generally does not charge separately for custody services but is compensated by account holders through commissions and other transaction-related or asset-based fees for securities trades that are executed through the custodian or that settle into custodian accounts.

Orchard Capital considers the financial strength, reputation, operational efficiency, cost, execution capability, level of customer service, and related factors in recommending broker-dealers or custodians to advisory clients.

In certain instances and subject to approval by Orchard Capital, Orchard Capital will recommend to clients certain other broker-dealers and/or custodians based on the needs of the individual client, and taking into consideration the nature of the services required, the experience of the broker-dealer or custodian, the cost and quality of the services, and the reputation of the broker-dealer or custodian. The final determination to engage a broker-dealer or custodian recommended by Orchard Capital will be made by and in the sole discretion of the client. The client recognizes that broker-dealers and/or custodians have different cost and fee structures and trade execution capabilities. As a result, there may be disparities with respect to the cost of services and/or the transaction prices for securities transactions executed on behalf of the client. Clients are responsible for assessing the commissions and other costs charged by broker-dealers and/or custodians.

##### A.1.a. How We Select Brokers/Custodians to Recommend

Orchard Capital seeks to recommend a custodian/broker who will hold client assets and execute transactions on terms that are overall most advantageous when compared to other available providers and their services. We consider a wide range of factors, including, among others, the following:

- combination of transaction execution services along with asset custody services (generally without a separate fee for custody)
- capability to execute, clear, and settle trades (buy and sell securities for client accounts)
- capabilities to facilitate transfers and payments to and from accounts (wire transfers, check requests, bill payment, etc.)

- breadth of investment products made available (stocks, bonds, mutual funds, exchange-traded funds (ETFs), etc.)
- availability of investment research and tools that assist us in making investment decisions
- quality of services
- competitiveness of the price of those services (commission rates, margin interest rates, other fees, etc.) and willingness to negotiate them
- reputation, financial strength, and stability of the provider
- their prior service to us and our other clients
- availability of other products and services that benefit us, as discussed below

#### **A.1.b. Client's Custody and Brokerage Costs**

For client accounts that the firm services, the custodian generally does not charge clients separately for custody services but is compensated by charging commissions or other fees on trades that it executes or that settle into the custodian's accounts. The custodian's commission rates applicable to the firm's client accounts were negotiated based on the firm's commitment to maintain a certain minimum amount of client assets at the custodian. This commitment benefits the client because the overall commission rates paid are lower than they would be if the firm had not made the commitment. In addition to commissions, the custodian charges a flat dollar amount as a "prime broker" or "trade away" fee for each trade that the firm has executed by a different broker-dealer but where the securities bought or the funds from the securities sold are deposited (settled) into the client's custodian account. These fees are in addition to the commissions or other compensation the client pays the executing broker-dealer. Because of this, in order to minimize the client's trading costs, the firm has the custodian execute most trades for the account.

#### **A.1.c. Soft Dollar Arrangements**

Orchard Capital generally receives research and services provided by broker-dealers from third-party vendors or by requesting that a broker-dealer step-out client trades or pay research credits to broker-dealers or vendors who produce research products or services. Orchard Capital may also trade directly with a broker-dealer who produces research or brokerage services. Selection of these broker-dealers is not made pursuant to an agreement; however, Orchard Capital utilizes an internal allocation procedure to identify those brokers or dealers who produce research or services that are provided to Orchard Capital and endeavors to direct sufficient research credits generated by its clients' accounts to such brokers or dealers to ensure the continued receipt of the research and services that Orchard Capital believes are valuable. To the extent Orchard Capital utilizes client transactions to obtain information Orchard Capital might otherwise acquire at its own expense, Orchard Capital may have an incentive to place a greater volume of transactions or pay higher commissions.

The research and brokerage services provided to Orchard Capital may be proprietary or produced by third parties. The research and brokerage services are used by Orchard Capital in making investment decisions or trading for client accounts and constitute advice, either

directly or through publications or writings, as to the value of securities, the advisability of investing, purchasing, or selling securities, and the availability of securities or purchasers and sellers of securities. They include analysis and reports concerning issuers, industries, securities, economic factors and trends, portfolio strategies, and meetings where corporate executives are present to provide information on the performance of their companies. They may also include statistical analysis, data and data services, software and computer programs utilized for research and portfolio analysis, trade analytics, market research, and brokerage services relating to execution, clearing, and settlement of transactions. In some cases, products and services may be provided to Orchard Capital that constitute both (i) research and brokerage services and (ii) services used for administrative or other functions not related to the investment decision-making or brokerage processes. In such cases, the allocation will generally be made on the basis of the percentage of time devoted to Orchard Capital's use of the product for research vs. non-research applications, or such other appropriate measure of the value of the product for each use as the Compliance Officer determines to be appropriate, both initially and upon subsequent periodic review.

Research products or services provided by brokers may be used in servicing any or all of the clients of Orchard Capital, and such research products or services may not necessarily be used by Orchard Capital in connection with the accounts that paid commissions to the brokers providing such products or services. For various reasons, including differing investment strategies and directed brokerage arrangements, products and services may benefit clients that do not execute transactions generating research or brokerage credits. Brokerage for a related party account and the firm's capital account is directed to a broker providing custody for the accounts; these accounts do not generate research or brokerage credits. Clients that direct brokerage may establish commission recapture programs where services are received directly by the client account in return for brokerage generated by that account.

As indicated above, individual clients may direct Orchard Capital (subject to certain conditions which may from time to time be imposed by Orchard Capital) to effect portfolio transactions through specific brokers or dealers. A client who chooses to direct the use of a particular broker or dealer should consider whether such a direction may result in certain costs or disadvantages to the client, either because the client may pay higher commissions on some transactions than might otherwise be obtainable by Orchard Capital, or may receive less favorable executions on some transactions, or both. The ability of Orchard Capital to negotiate commission rates with directed brokers will be limited. A client who directs brokerage may also be subject to the disadvantages discussed in Item 12.B.3 below regarding aggregation of orders. In determining whether to instruct Orchard Capital to utilize a particular broker or dealer, the client may wish to compare the possible costs or disadvantages of such an arrangement with the value of the services provided.

#### **A.1.d. Institutional Trading and Custody Services**

The custodian provides Orchard Capital with access to its institutional trading and custody services, which are typically not available to the custodian's retail investors. These services generally are available to independent investment advisors on an unsolicited basis, at no charge to them so long as a certain minimum amount of the advisor's clients' assets are



maintained in accounts at a particular custodian. These services are not contingent upon Orchard Capital committing to a custodian any specific amount of business (assets in custody or trading commissions). The custodian's brokerage services include the execution of securities transactions, custody, research, and access to mutual funds and other investments that are otherwise generally available only to institutional investors or would require a significantly higher minimum initial investment.

#### **A.1.e. Other Products and Services**

Custodians may also make available to Orchard Capital other products and services that benefit Orchard Capital but may not directly benefit its clients' accounts. Many of these products and services may be used to service all or some substantial number of Orchard Capital's accounts, including accounts not maintained at custodian. The custodian may also make available to Orchard Capital software and other technology that

- provide access to client account data (such as trade confirmations and account statements)
- facilitate trade execution and allocate aggregated trade orders for multiple client accounts
- provide research, pricing and other market data
- facilitate payment of Orchard Capital's fees from its clients' accounts
- assist with back-office functions, recordkeeping and client reporting

The custodians may also offer other services intended to help Orchard Capital manage and further develop its business enterprise. These services may include

- compliance, legal and business consulting
- publications and conferences on practice management and business succession
- access to employee benefits providers, human capital consultants and insurance providers

The custodians may also provide other benefits such as educational events or occasional business entertainment of Orchard Capital personnel. In evaluating whether to recommend that clients custody their assets at the custodian, Orchard Capital may take into account the availability of some of the foregoing products and services and other arrangements as part of the total mix of factors it considers, and not solely the nature, cost or quality of custody and brokerage services provided by the custodian, which may create a potential conflict of interest.

#### **A.1.f. Independent Third Parties**

The custodians may make available, arrange, and/or pay third-party vendors for the types of services rendered to Orchard Capital. The custodians may discount or waive fees it would otherwise charge for some of these services or all or a part of the fees of a third party providing these services to Orchard Capital.

**A.1.g. Additional Compensation Received from Custodians**

Orchard Capital may participate in institutional customer programs sponsored by broker-dealers or custodians. Orchard Capital may recommend these broker-dealers or custodians to clients for custody and brokerage services. There is no direct link between Orchard Capital's participation in such programs and the investment advice it gives to its clients, although Orchard Capital receives economic benefits through its participation in the programs that are typically not available to retail investors. These benefits may include the following products and services (provided without cost or at a discount):

- Receipt of duplicate client statements and confirmations
- Research-related products and tools
- Consulting services
- Access to a trading desk serving Orchard Capital participants
- Access to block trading (which provides the ability to aggregate securities transactions for execution and then allocate the appropriate shares to client accounts)
- The ability to have advisory fees deducted directly from client accounts
- Access to an electronic communications network for client order entry and account information
- Access to mutual funds with no transaction fees and to certain institutional money managers
- Discounts on compliance, marketing, research, technology, and practice management products or services provided to Orchard Capital by third-party vendors

The custodian may also pay for business consulting and professional services received by Orchard Capital's related persons, and may pay or reimburse expenses (including travel, lodging, meals and entertainment expenses for Orchard Capital's personnel to attend conferences). Some of the products and services made available by such custodian through its institutional customer programs may benefit Orchard Capital but may not benefit its client accounts. These products or services may assist Orchard Capital in managing and administering client accounts, including accounts not maintained at the custodian as applicable. Other services made available through the programs are intended to help Orchard Capital manage and further develop its business enterprise. The benefits received by Orchard Capital or its personnel through participation in these programs do not depend on the amount of brokerage transactions directed to the broker-dealer.

Orchard Capital also participates in similar institutional advisor programs offered by other independent broker-dealers or trust companies, and its continued participation may require Orchard Capital to maintain a predetermined level of assets at such firms. In connection with its participation in such programs, Orchard Capital will typically receive benefits similar to those listed above, including research, payments for business consulting and professional services received by Orchard Capital's related persons, and reimbursement of expenses (including travel, lodging, meals and entertainment expenses for Orchard Capital's personnel to attend conferences sponsored by the broker-dealer or trust company).

As part of its fiduciary duties to clients, Orchard Capital endeavors at all times to put the interests of its clients first. Clients should be aware, however, that the receipt of economic benefits by Orchard Capital or its related persons in and of itself creates a potential conflict of interest and may indirectly influence Orchard Capital's recommendation of broker-dealers for custody and brokerage services.

## **A.2. Brokerage for Client Referrals**

Orchard Capital does not engage in the practice of directing brokerage commissions in exchange for the referral of advisory clients.

## **A.3. Directed Brokerage**

### **A.3.a. Orchard Capital Recommendations**

Orchard Capital typically recommends Convergen Prime/Pershing, Fidelity, and Schwab as custodian for its separately managed account clients' funds and securities and to execute securities transactions on its clients' behalf.

### **A.3.b. Client-Directed Brokerage**

Occasionally, clients may direct Orchard Capital to use a particular broker-dealer to execute portfolio transactions for their account or request that certain types of securities not be purchased for their account. Clients who designate the use of a particular broker-dealer should be aware that they will lose any possible advantage Orchard Capital derives from aggregating transactions. Such client trades are typically effected after the trades of clients who have not directed the use of a particular broker-dealer. Orchard Capital loses the ability to aggregate trades with other Orchard Capital advisory clients, potentially subjecting the client to inferior trade execution prices as well as higher commissions.

## **B. Aggregating Securities Transactions for Client Accounts**

### **B.1. Best Execution**

Orchard Capital, pursuant to the terms of its investment advisory agreement with clients, has discretionary authority to determine which securities are to be bought and sold, the amount of such securities, and the executing broker. Orchard Capital recognizes that the analysis of execution quality involves a number of factors, both qualitative and quantitative. Orchard Capital will follow a process in an attempt to ensure that it is seeking to obtain the most favorable execution under the prevailing circumstances when placing client orders. These factors include but are not limited to the following:

- The financial strength, reputation and stability of the broker
- The efficiency with which the transaction is effected
- The ability to effect prompt and reliable executions at favorable prices (including the applicable dealer spread or commission, if any)

- The availability of the broker to stand ready to effect transactions of varying degrees of difficulty in the future
- The efficiency of error resolution, clearance and settlement
- Block trading and positioning capabilities
- Performance measurement
- Online access to computerized data regarding customer accounts
- Availability, comprehensiveness, and frequency of brokerage and research services
- Commission rates
- The economic benefit to the client
- Related matters involved in the receipt of brokerage services

Consistent with its fiduciary responsibilities, Orchard Capital seeks to ensure that clients receive best execution with respect to clients' transactions by blocking client trades to reduce commissions and transaction costs. To the best of Orchard Capital's knowledge, these custodians provide high-quality execution, and Orchard Capital's clients do not pay higher transaction costs in return for such execution.

Commission rates and securities transaction fees charged to effect such transactions are established by the client's independent custodian and/or broker-dealer. Based upon its own knowledge of the securities industry, Orchard Capital believes that such commission rates are competitive within the securities industry. Lower commissions or better execution may be able to be achieved elsewhere.

## **B.2. Security Allocation**

Since Orchard Capital may be managing accounts with similar investment objectives, Orchard Capital may aggregate orders for securities for such accounts. In such event, allocation of the securities so purchased or sold, as well as expenses incurred in the transaction, is made by Orchard Capital in the manner it considers to be the most equitable and consistent with its fiduciary obligations to such accounts.

Orchard Capital's allocation procedures seek to allocate investment opportunities among clients in the fairest possible way, taking into account the clients' best interests. Orchard Capital will follow procedures to ensure that allocations do not involve a practice of favoring or discriminating against any client or group of clients. Account performance is never a factor in trade allocations.

Orchard Capital's advice to certain clients and entities and the action of Orchard Capital for those and other clients are frequently premised not only on the merits of a particular investment, but also on the suitability of that investment for the particular client in light of his or her applicable investment objective, guidelines and circumstances. Thus, any action of Orchard Capital with respect to a particular investment may, for a particular client, differ or be opposed to the recommendation, advice, or actions of Orchard Capital to or on behalf of other clients.

### **B.3. Order Aggregation**

Orders for the same security entered on behalf of more than one client will generally be aggregated (i.e., blocked or bunched) subject to the aggregation being in the best interests of all participating clients. Subsequent orders for the same security entered during the same trading day may be aggregated with any previously unfilled orders. Subsequent orders may also be aggregated with filled orders if the market price for the security has not materially changed and the aggregation does not cause any unintended duration exposure. All clients participating in each aggregated order will receive the average price and, subject to minimum ticket charges and possible step outs, pay a pro rata portion of commissions.

To minimize performance dispersion, "strategy" trades should be aggregated and average priced. However, when a trade is to be executed for an individual account and the trade is not in the best interests of other accounts, then the trade will only be performed for that account. This is true even if Orchard Capital believes that a larger size block trade would lead to best overall price for the security being transacted.

For certain individually managed accounts it may not be cost effective to include a particular client transaction in an aggregated order because of trade away fees imposed by the client's custodian. In such instances the order will be placed directly with the client's custodian. As a result, such clients may receive less than optimal trade execution. In addition, this may cause clients that participate in an aggregated order to disproportionately absorb soft dollar commission expense.

### **B.4. Allocation of Trades**

All allocations will be made prior to the close of business on the trade date. In the event an order is "partially filled," the allocation will be made in the best interests of all the clients in the order, taking into account all relevant factors including, but not limited to, the size of each client's allocation, clients' liquidity needs and previous allocations. In most cases, accounts will get a pro forma allocation based on the initial allocation. This policy also applies if an order is "over-filled."

Orchard Capital acts in accordance with its duty to seek best price and execution and will not continue any arrangements if Orchard Capital determines that such arrangements are no longer in the best interest of its clients.

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## Item 13: Review of Accounts

### **A. Schedule for Periodic Review of Client Accounts or Financial Plans and Advisory Persons Involved**

Accounts are reviewed by Mr. Harper and Mr. Valencia. Reviews are conducted daily on an ongoing basis for all accounts taken as a whole; specific accounts are reviewed at least monthly. More frequent reviews may also be triggered by a change in the client's investment objectives, tax considerations, large deposits or withdrawals, large purchases or sales, loss of confidence in corporate management, or changes in macro-economic climate.

Financial planning clients receive their financial plans and recommendations at the time service is completed. There are no post-plan reviews unless engaged to do so by the client.

### **B. Review of Client Accounts on Non-Periodic Basis**

Orchard Capital may perform ad hoc reviews on an as-needed basis if there have been material changes in the client's investment objectives or risk tolerance, or a material change in how Orchard Capital formulates investment advice.

### **C. Content of Client-Provided Reports and Frequency**

Orchard Capital will send quarterly performance and annually other reports and a newsletter to clients which discusses the management's view of the outlook of the equity markets. These reports may include performance of relevant equity indexes, composites performance information review of valuations or other items of interest to equity and small cap investors, analysis or historical review of the behavior or performance of related markets, or other perspectives that the managers and principals of the firm believe would be of interest to the clients of the firm.

The client's independent custodian provides account statements directly to the client no less frequently than quarterly. The custodian's statement is the official record of the client's securities account and supersedes any statements or reports created on behalf of the client by Orchard Capital.

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

### **A. Economic Benefits Provided to the Advisory Firm from External Sources and Conflicts of Interest**

Other than what has been disclosed in Item 6, Orchard Capital does not receive economic benefits for referring clients to third-party service providers.

### **B. Advisory Firm Payments for Client Referrals**

Orchard Capital does not pay for client referrals.

## Item 15: Custody

SEC advisers are deemed to have custody by virtue of the act of direct fee debits to client accounts. As such, please be advised that clients will receive at least quarterly account statements directly from their custodian containing a description of all activity, cash balances and portfolio holdings in the client's account. Clients are urged to compare billing statements provided by Orchard Capital to the custodian statement for accuracy. Any discrepancies should be brought to the firm's attention. The custodian's statement is the official record of the account.

For the Orchard Small Cap Value Fund, the custodian is described in the fund's Prospectus and Statement of Additional Information ("SAI").

With respect to Orchard's proprietary private fund, Orchard Capital is deemed to have custody by virtue of its role as investment manager of the private fund. The firm has elected to engage McGladrey LLP to be the auditor of the fund. McGladrey is registered with the Public Company Accounting Oversight Board ("PCAOB").



## **Item 16: Investment Discretion**

Separately managed account clients may grant a limited power of attorney to Orchard Capital with respect to trading activity in their accounts by signing the appropriate custodian limited power of attorney form. In those cases, Orchard Capital will exercise full discretion as to the nature and type of securities to be purchased and sold, the amount of securities for such transactions, and the executing broker to be used. Investment limitations may be designated by the client as outlined in the investment advisory agreement.

With respect to Orchard's Small Cap Value Fund and its proprietary private fund, Orchard has full discretionary authority as to the nature and type of securities to be purchased and sold, the amount of securities for such transactions, and the executing broker to be used.

## Item 17: Voting Client Securities

Orchard Capital often has voting power with respect to securities in client accounts. Orchard Capital owes certain fiduciary duties with respect to the voting of proxies. These fiduciary duties include (i) the duty of care which is required to monitor corporate events and to vote the proxies, and (ii) the duty of loyalty which is required to vote proxies in a manner consistent with the best interests of the client and to put the client's interests before its own interests. In keeping with its fiduciary duties, Orchard Capital has adopted a Proxy Voting Policy, which sets forth policies and procedures designed to ensure that Orchard Capital votes each client's securities in the best interests of the client.

Orchard Capital will be authorized to take action and render any advice with respect to the voting of proxies for securities held in the client's account. Orchard Capital will make an independent valuation for each applicable company held in the client's account in accordance with its fiduciary obligations as detailed in this policy. Clients may contact Orchard Capital's Managing Member for information about how Orchard Capital voted with respect to any of the securities held in their account.

Except as required by applicable law, Orchard Capital will not be obligated to render advice or take any action on behalf of the client with respect to assets presently or formerly held in the client's account which become the subject of any legal proceedings, including bankruptcies.

As a general rule, Orchard Capital will vote all proxies relating to a particular proposal the same way for all client accounts holding the security in accordance with Orchard Capital's Proxy Voting Policy, unless a client specifically instructs in writing to vote such client's securities otherwise. When making proxy voting decisions, Orchard Capital may seek advice or assistance from third-party consultants, such as proxy voting services or legal counsel. A copy of Orchard Capital's Proxy Voting Policy will be provided upon receipt of a written request.

## **Item 18: Financial Information**

### **A. Balance Sheet**

Orchard Capital does not require the prepayment of fees of \$1200 or more, six months or more in advance, and as such is not required to file a balance sheet.

### **B. Financial Conditions Reasonably Likely to Impair Advisory Firm's Ability to Meet Commitments to Clients**

Orchard Capital does not have any financial issues that would impair its ability to provide services to clients.

### **C. Bankruptcy Petitions During the Past Ten Years**

There is nothing to report on this item.