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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 30, 2020

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This brochure ("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) 655-1350. 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 is also available on the SEC's website at  
[www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

Arena 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**

Since Arena's previously filed Brochure dated March 28, 2019, there have been no material changes to Arena's investment advisory business.

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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, Bernard Partners, LLC (“BernardCo”), hold certain rights which may result in their holding an indirect stake in the Investment Adviser. BernardCo is the managing member of the General Partner.

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”), 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”).

Arena provides investment advisory services directly, and indirectly through its affiliated advisory entities, to: (i) certain private investment vehicles including domestic and foreign partnerships and corporations sponsored and/or organized by Arena (“Arena Funds”); and (ii) separately managed accounts and single investor vehicles that may be domestic or foreign partnerships or corporations each established by, or on behalf of, a single third party investor (or two or more affiliated third party investors) (collectively, “SMAs” and together with Arena Funds, “Clients”).

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 applicable.

### 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 be parallel all or a portion parallel of the investment strategies of one of the other Arena Clients and Arena proprietary accounts, but may vary depending on the investment mandate. 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, 2019, Arena had approximately \$1,269,120,963 in regulatory assets under management (of which approximately \$235,709,952 of assets were non-discretionary) and \$1,033,411,011 were 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 fund investors will pay some or all of the following fees to Arena:

- (i) An annual management fee, typically payable generally monthly or quarterly in advance, that will be up to 2.0% per annum of the applicable investor's capital account balance or assets under management (a "Management Fee"), as applicable. The specific payment terms and other conditions of the management fees payable to Arena are set forth in the Offering Documents of each respective Client.; and
- (ii) A performance fee (or in the case of certain other Clients, an "incentive allocation"; the phrase "Carry" is used throughout this brochure to refer to both a performance fee or an incentive allocation) that will be up to 20% of the net capital appreciation of such investor's capital balance 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). 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.

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 negotiates fees with regard to its separately managed accounts.

Arena and certain of its affiliates also charge up to a 50 bps (0.50%) fee per annum, depending on the level of sophistication of the relevant mandate, 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, is not offset by any Management or other fees, 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 “Certain Asset Servicing Expense” and 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 (See below “Additional Fees and Services”).

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

Arena and any affiliated general partners will be generally responsible for all of their respective overhead costs and expenses, to the extent that such costs and expenses are not otherwise borne by one or more Clients.

In addition to the foregoing fees, each Client will generally pay the operating and investment expenses related to the affairs of such Client, including, but not limited to:

- Expenses related to the organization and offering (including organizational and incorporation expenses of the Client and its general partner (as applicable), legal and accounting fees incurred in connection therewith, expenses incurred in connection with the preparation of the governing documents of the Client and its general partner (as applicable);
- Expenses incurred to comply with any law or regulation related to the business and activities of the Client and its general partner (as applicable), and all other expenses with respect to offering interests of the applicable Client (including, without limitation, filing fees and expenses, travel, hotel, meals and similar costs)); brokerage commissions; expenses relating to short sales; hedging expenses; clearing and settlement charges; custodial fees; bank service fees; administration expenses; valuation and appraisal expenses; organizational expenses; costs and expenses associated with processing withdrawals;
- Costs and expenses related to closings and the admission of investors; costs of winding-up the Client; interest expenses; financing costs; professional and other fees and costs relating to the investigation, development, acquisition, consummation, ownership, maintenance, monitoring, hedging or disposition of investment opportunities, whether or not consummated (including expenses of attorneys, consultants and experts, private and commercial travel and investment software); origination fees; valuation costs;
- Expenses relating to the engagement of affiliates of Arena to who provide services to the Client or issuers of its investments (including allocable overhead), but excluding investment professionals employed by Arena primarily engaged in the investment activities of the Client, expenses related to the costs of trade breaks; costs of trade errors to the extent consistent with the Investment Adviser's Trade Error Policy;
- Expenses related to organizing and structuring any blockers of special purpose vehicles; tax structuring costs, including establishing additional management entities in certain non-U.S. jurisdictions for the primary purpose of generating tax-related benefits for the Client; any and all fees, costs and expenses relating to the

appointment and engagement of independent and non-executive directors acting on behalf of a Client (as applicable), general partners (or similar), any alternative vehicle or blocker or the equivalent (and, if applicable, the general partners or the equivalent of the general partners or the equivalent) and the salaries and remuneration of any employee or consultant to any blocker, holding entity or special purpose entity, including the employees of any Irish subsidiaries or affiliates; costs of joint venture servicing;

- Expenses related to risk management expenses; insurance (including general liability, directors and officers, errors or omissions and any cybersecurity insurance in respect of the Investment Adviser); expenses incurred in connection with distributions to the Clients; expenses incurred in connection with any meetings of the L.P. Advisory Committee, if applicable, (including, without limitation, travel, meal and lodging expenses of the Investment Adviser and its representatives and meal and lodging expenses of the Clients, in each case, incurred in connection with attending such meetings);
- Expenses incurred in connection with compliance with side letters and most favored nations processes; expenses relating to defaults by Client or Client's investors in the payment of any capital contributions; legal and compliance expenses; Management Fees; expenses related to or in connection with any governmental inquiry, investigation or proceeding involving a Client, including the amounts of any judgments, settlements or fines paid in connection therewith (other than as set forth in the Offering Documents); auditing and tax preparation expenses; regulatory expenses related to the Client, including costs of Form PF and the AIFMD; accounting and operations expenses (including the cost of accounting software packages);
- Expenses related to extraordinary expenses (including litigation, indemnification and contribution expenses); Client-level taxes; out-of-pocket expenses of asset management personnel; insurance costs, including, but not limited to, directors' and officers' and errors and omissions insurance; fees and expenses of sub-advisors; costs of relevant non-accounting software; expenses associated with investor reports; fees and expenses of unaffiliated servicers of specific assets owned by the Client; costs of research, information systems, software and hardware; costs of participations and other forms of compensation provided to deal finders or sourcers; third party costs of other service providers to the Client, including affiliates; costs of any third parties that approve affiliated transactions (including the Independent Representative and the L.P. Advisory Committee); and certain overhead expenses specified in the Client's Offering Documents; and
- Expenses related to certain Arena affiliates also charge a 50 bps (.50%) fee per annum based upon fair value of the illiquid portion of the loan portfolio in consideration for

day-to-day asset management services (including loan servicing and other ancillary services required to maintain the types of illiquid assets in the Fund's portfolio) as well as due diligence, acquisition and disposition services.

Specific fees and expenses are outlined in each Client's Offering Documents.

***Certain Asset Servicing Expense:***

Certain assets that Arena expects to acquire on behalf of certain Clients and/or funds that it advises require the direct and continuous supervision of asset management personnel. Arena has contracted with its wholly owned affiliate, Quaestor Advisors, LLC ("Quaestor") for the day-to-day administrative services, including loan servicing and other ancillary services, required to maintain the types of illiquid assets. Quaestor was created and staffed to manage a broad category of illiquid assets on behalf of Clients and/or funds advised by Arena. Quaestor charges a flat "Asset Servicing Expense" at the annual rate of 50 bps (such rate may be modified from time to time, the "Annual Rate") calculated without reduction for the accrued Asset Servicing Expense, Management Fees or incentive allocation (if applicable) for the management of the Fund. The Asset Servicing Expense will accrue and will be paid monthly in advance.

Although the Annual Rate may change, material changes to the Annual Rate may require the consent of the relevant Client or fund investor, as applicable.

In addition to the day-to-day administrative services, Quaestor will provide due diligence, acquisition and disposition services to the Client or fund for the types of assets listed above. These charges may be in addition to the 50bps, using actual time incurred based on Quaestor's cost of providing such services, including overhead (determined by time records of the personnel providing such services with respect to such assets) plus a 10% margin. For completed transactions, such costs will be divided pro rata among the various Clients and accounts of Arena and its affiliates who acquire or dispose of the assets. For broken deals, the costs will be divided pro rata among the various Clients and accounts of Arena and its affiliates who were scheduled to acquire the assets. If a Client or fund has an agreement with Arena or its affiliates which provides for an alternative calculation or different fee structure, the amounts charged to the Clients and accounts lacking such arrangements will not include that portion of the expense which would have been charged to the other Client or account.

The Asset Servicing Expense and the charges described in the preceding paragraph are in addition to, and will not offset, the Management Fee or any other fees; they are used to cover Quaestor's expense of engaging personnel and incurring other overhead costs to manage the illiquid assets in the relevant portfolio, in lieu of hiring an unaffiliated third-party loan servicer.

Funds advised by Arena do not typically bear office rent or salary expenses of the

employees of Arena or its affiliates except as described above. Quaestor's staff time charges do not include any fund director or more senior level personnel of Arena or its affiliates or any portion of Arena's back office staff. Quaestor will not manage or receive payments in respect of a Client or fund's portfolio of liquid assets (i.e., Level I assets for U.S. Generally Accepted Accounting Principles purposes), for which the costs of managing will be covered by the Management Fee.

If Client or fund invests in a transaction that results in the Client or fund being entitled to break-up, standby, commitment, consent, waiver or similar fees, Arena may receive and retain such fees and reduce the Management Fees or reimbursable expenses next payable by a like amount.

### *Other Special Expenses*

Quaestor Strategic Advisers LLC consists of U.S. and non-U.S. entities utilized by affiliates of Arena, that facilitate strategic arrangements with, or engagements (including on an independent contractor or employment basis) of, any persons that the general partner (or similar) determines in good faith to be industry executives, advisors, consultants, operating executives, subject matter experts or other persons acting in a similar capacity, to provide consulting, sourcing or other services to the Client, issuers of investments (including with respect to potential portfolio investments of the Fund) and other Arena Clients and their investments. The foregoing individuals are distinct from Arena employees. To the extent that for legal, tax, regulatory or similar reasons it is necessary or desirable that the foregoing activities be conducted by, through or with one or more affiliates of the Arena or other persons other than Quaestor Strategic Advisers, such activities will be treated for purposes of this definition as if they were conducted by Quaestor Strategic Advisers.

From time to time, employees of Quaestor Strategic Advisers may provide services to certain persons or entities, including Clients, issuers of investments, or other Arena Clients. In connection with such services, Quaestor Strategic Advisers may receive Special Expenses (defined below). Special Expenses will be retained by, and be for the benefit of, Quaestor Strategic Advisers.

"Special Expenses" means salary, fees, expenses or other compensation of any nature, including performance-based bonuses, paid by an issuer of an investment to Quaestor Strategic Advisers or any of its employees who acts as an officer of, or in an active management role at, or in respect of, such issuer (including industry executives, advisors, consultants (including operating consultants and sourcing consultants), operating executives, subject matter experts or other persons acting in a similar capacity engaged or employed by Quaestor Strategic Advisers, but excluding investment professionals employed by Arena engaged primarily in the investment activities of the Client).

For the avoidance of doubt, the above expenses are not meant to be an exhaustive list. When allocating expenses, Arena must first determine whether such expenses are the Client's own

expenses and therefore are to be borne by the Client or whether such expenses are expenses of Arena or its affiliates. In certain instances, where expenses are incurred partially for the benefit of Arena or its affiliates and partially for the benefit of the Client, such expenses are allocated by Arena in a manner it determines to be fair and equitable, taking into account any factors it deems relevant to the allocation of such expenses. In addition, where a particular expense or category of expenses is incurred by one or more Clients, Arena, at its discretion, generally allocates such expense or category of expense among the Clients in a manner it determines to be fair and equitable. The factors considered by Arena in allocating expenses include, without limitation, the net asset value or capital commitments of each Client, the relative holdings of a specific investment among applicable Clients, and the degree of usage on behalf of, and the relative benefits to, Arena and/or its affiliate and each such Client, in each case as Arena determines in its discretion.

Generally, investment-related expenses are allocated taking into account each applicable Client's net asset value (in the case of an open-end fund Client) or capital commitments (in the case of a closed-end fund Client) or in the case of a specific investment that has been consummated, the relative holdings of such investment among applicable Clients.

Similarly, broken deal expenses are generally allocated based on facts and circumstances as determined by Arena. Such determinations are inherently subjective, may not be precise and give rise to conflicts of interest. There can be no assurance that a different manner of calculation would not result in certain Clients bearing less (or more) expenses relative to other Clients or the Clients bearing less (or more) expenses relative to Arena and its affiliates. Notwithstanding the foregoing, Arena may allocate any such expense on a basis other than as set forth above if Arena determines that such allocation would be more equitable.

Arena has entered into side letter agreements or similar agreements pursuant to which certain investors are granted specific rights, benefits or privileges that are not generally made available to other investors.

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 will be up 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 will be up 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, creates a conflict of interest for Arena because such an arrangement provides an incentive to favor accounts for which Arena has the ability to earn Carry or Set Aside Carry. Such situations give rise to conflicts of interest including with respect to: (i) the allocation of investment opportunities and (ii) other types of affiliated transactions.

Arena receives performance-based compensation (including the carried interest or incentive fee paid to the general partners) from certain Clients as such Arena may have an interest in engaging in riskier or more speculative investments than would be engaged in if the performance-based compensation did not exist in order to increase the potential compensation with respect to such Clients. Arena may also be incentivized not to permanently write down or write off or dispose of an investment that has poor prospects for improvement in order to receive ongoing management fees in respect of such investment and potential carried interest or incentive fee distributions if such asset appreciates in the future. In addition, the method of calculating the carried interest or incentive fee may result in conflicts of interest between Arena, and Clients with respect to the management and disposition of investments.

Arena may also have an incentive to favor a Client that pays higher performance-based compensation over a Client that has reduced management fees and/or performance-based compensation. This may result in potential conflicts of interest with respect to the allocation and disposition of investment opportunities.

Certain investors in the Arena Funds or have been granted one or more of the following rights with respect to their investments: (i) a reduced management fee and/or performance-based compensation and/or operating expense; (ii) the right to receive improved fees, liquidity, information rights and other terms received by other investors; (iii) the right to receive certain additional information with respect to certain funds, including position-level portfolio information or events related to Arena; (iv) notification to the investor with respect to the investor’s ownership percentage of a certain fund; and (v) limitation on the investor’s ownership percentage of a certain fund below certain thresholds.

In addition to the above, certain investors in the Arena Funds have been granted one or more additional rights with respect to their investments, including, but not limited to the right to opt out of the requirement to fund capital calls or otherwise be excused from participating in certain investments due to regulatory, tax or public policy or the

investor's internal considerations.

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, foreign and domestic limited partnerships, companies, limited liability companies, or trusts not registered under the U.S. Investment Company Act of 1940, as amended. In addition, the securities issued by the Clients are not registered or required to be registered under the Securities Act of 1933, as amended.

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). Generally, the minimum subscription amount for investors in funds managed by Arena general varies between 5,000,000 and 15,000,000, which can be waived at the discretion of the general partner of the applicable Arena fund. Any waiver in the minimum subscription amount will not fall below the minimum amount required by law.

## **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 approves the 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 loans post origination/acquisition, 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

An investment in a Client is speculative and involves substantial risks, including, without limitation, general market and investment risks, risks associated with certain instruments, trading techniques and strategies, risks associated with derivatives, structural risks and tax risks. An investment in a Client is suitable only for sophisticated investors who have no need for liquidity in this investment. An investment in an Arena Client provides limited liquidity because the interests in the Client are not freely transferable and may not subject to any right of withdrawal.

An investment in a Client is speculative and suitable only for persons who have limited need for liquidity of their investment and no need for regular current income. There is no

assurance that the Client will achieve its investment objective.

**Loss of Invested Capital.** An investment in a Client is speculative. The value of interests will fluctuate based upon a multitude of factors, including the financial condition, results of operations and prospects of the issuers of the underlying securities acquired, governmental intervention, market conditions, and local, regional, national and global economic conditions. Therefore, investors may lose all or a portion of their principal invested in the Client if the Client's trading and investment strategies are not successful.

**Limited Operating History.** The Client is a newly formed entity and has no operating history. There can be no assurance that the Client's investment returns will be comparable to past performance achieved by Arena or that the Client will achieve its investment or return objectives.

**Substantial Costs.** The Client is subject to fees (including the Management Fee), transactional and operating costs and expenses irrespective of its performance which, in the aggregate, may be substantial. If these fees, costs and expenses are not offset by investment gains, then the Client will not achieve its investment objective.

**Illiquid Assets.** It is anticipated that a substantial portion of the Client's positions will be or will become relatively or entirely illiquid or may cease to be traded after the Client invests. In such cases, and in the event of extreme market volatility, the Client may not be able to liquidate its positions promptly if the need should arise. In addition, the 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.

**Transactions with Affiliates.** The Client anticipates selling certain assets in affiliated transactions, including through cross trades with other Arena Clients. Selling assets to an affiliate presents a number of conflicts, including the potential of enhancing profits for another Arena Client (and indirectly, Arena) while disadvantaging the economic interests of the 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.

**Portfolio Concentration.** The Client is not limited with respect to the amount of capital that may be committed to any one investment or type of investment. No limit is placed on the concentration of investments to be made in a single industry or geographic area.

**Risks Associated with Loan Transfers.** The Client may transfer a portion of its loans to another Client, as well as to other unaffiliated parties. If the Client cannot make such transfer, as a result of an inability to value a loan properly or an inability to agree upon an assigned value with a potential transferee, the Client may be obligated to hold a larger piece of such loan than originally anticipated, thereby making the Client's portfolio even more concentrated, even if significant costs have already been incurred in connection with the

valuation and anticipated transfer of such loan investments.

**Syndication and/or Transfer of Debt Instruments.** The Client, directly or through the use of one or more SPVs, may originate and/or purchase secured debt assets. The Client may also purchase secured debt assets (including, participation interests or other indirect economic interests) that have been originated by the Client or from other parties and/or trading on the secondary market. The Client may, in certain circumstances, originate or purchase such secured debt assets with the intent of syndicating and/or otherwise transferring a significant portion thereof. In such instances, the Client will bear the risk of any decline in value prior to such syndication and/or other transfer. In addition, the Client will also bear the risk of any inability to syndicate or otherwise transfer such secured debt assets or such amount thereof as originally intended, which could result in the Client owning a greater interest therein than anticipated.

**Market Disruptions; Governmental Intervention; Dodd-Frank Wall Street Reform and Consumer Protection Act.** The global financial markets have in the past gone through pervasive and fundamental disruptions that have led to extensive and unprecedented governmental intervention. Such intervention has in certain cases been implemented on an “emergency” basis, suddenly and substantially eliminating market participants’ ability to continue to implement certain strategies or manage the risk of their outstanding positions. In addition — as one would expect given the complexities of the financial markets and the limited time frame within which governments have felt compelled to take action — these interventions have typically been unclear in scope and application, resulting in confusion and uncertainty which in itself has been materially detrimental to the efficient functioning of the markets as well as previously successful investment strategies.

The Client may incur major losses in the event of disrupted markets and other extraordinary events in which historical pricing relationships become materially distorted. The risk of loss from pricing distortions is compounded by the fact that in disrupted markets many positions become illiquid, making it difficult or impossible to close out positions against which the markets are moving. The financing available to the Client from its banks, dealers and other counterparties is typically reduced in disrupted markets. Such a reduction may result in substantial losses to the Client. Market disruptions may from time to time cause dramatic losses for the Client, and such events can result in otherwise historically low-risk strategies performing with unprecedented volatility and risk.

In response to the financial crises of 2008-2009, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Reform Act” or the “Dodd-Frank Act”) was enacted in July 2010. The Reform Act established a comprehensive framework for the regulation of markets, market participants and financial instruments that were previously unregulated and substantially altered the regulation of many other markets, market participants and financial instruments. The Reform Act could result in certain investment strategies in which the Client engages or may have otherwise engaged becoming non-viable or non-economical

to implement. For example, Section 941 of the Dodd-Frank Act amended. Section 15G of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), to impose risk retention requirements on certain securitization transactions and to require adoption of related implementing rules (the “U.S. Risk Retention Rules”), which may affect the financing activities of the Client. The Reform Act and rules and regulations adopted pursuant to the Reform Act could have a material adverse impact on the profitability of the Client.

The “Volcker Rule” component of the Dodd-Frank Act materially restricts proprietary speculative trading by banks, “bank holding companies” and other regulated entities. As a result, there has been a significant influx of new portfolio managers into private investment Clients that had previously traded on behalf of institutional proprietary accounts. Such influx can only increase the competition for the Client from other talented portfolio managers.

**Additional Government or Market Regulation Changes.** Market disruptions and the dramatic increase in the capital allocated to alternative investment strategies during the past decade have led to increased governmental as well as self-regulatory scrutiny of the “hedge Client” and financial services industry in general. Certain legislation proposing greater regulation of the industry, such as the recently enacted Reform Act, is considered periodically by the United States Congress, as well as the governing bodies of non-U.S. jurisdictions. It is impossible to predict what, if any, changes in the laws or regulations applicable to the Client, the Arena, the markets in which they trade and invest or the counterparties with which they do business may be instituted in the future, in particular in light of uncertainty caused by President Trump’s administration’s stated intentions regarding financial regulation. Any such laws or regulations, or repeals of existing laws or regulations, could have a material adverse impact on the profit potential of the Client as well as require increased transparency as to the identity of the Investors.

***Epidemics, Pandemics, Outbreaks of Disease and Public Health Issues.*** Arena’s business activities as well as the activities of the Arena Funds and SMAs and their operations and investments could be materially adversely affected by outbreaks of disease, epidemics and public health issues in Asia, Europe, North America, the Middle East and/or globally, such as COVID-19 (and other novel coronaviruses), Ebola, H1N1 flu, H7N9 flu, H5N1 flu, Severe Acute Respiratory Syndrome, or SARS, or other epidemics, pandemics, outbreaks of disease or public health issues. In particular, coronavirus, or COVID-19, has spread and is currently spreading rapidly around the world since its initial emergence in December 2019 and has negatively affected (and may continue to negative affect or materially impact) the global economy, global equity markets and supply chains (including as a result of quarantines and other government-directed or mandated measures or actions to stop the spread of outbreaks). Although the long-term effects of coronavirus, or COVID-19 (and the actions and measures taken by governments around the world to halt the spread of such virus), cannot currently be predicted, previous occurrences of other epidemics, pandemics and outbreaks of disease, such as H5N1, H1N1 and the Spanish flu, had material adverse effects

on the economies, equity markets and operations of those countries and jurisdictions in which they were most prevalent. A recurrence of an outbreak of any kind of epidemic, communicable disease, virus or major public health issue could cause a slowdown in the levels of economic activity generally (or push the world or local economies into recession), which would be reasonably likely to adversely affect the business, financial condition and operations of Arena and the its Clients. Should these or other major public health issues, including pandemics, arise or spread farther (or continue to worsen), Arena and its Clients could be adversely affected by more stringent travel restrictions (such as mandatory quarantines and social distancing), additional limitations on Arena's (or indirectly limitations on investment activity for Arena's Clients) operations and business activities and governmental actions limiting the movement of people and goods between regions and other activities or operations.

**Force Majeure Events.** Arena may be delayed or unable to perform all or certain contractual obligations to its Clients if such default or delay is caused, directly or indirectly, by acts of terrorism, fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, or any other such similar cause beyond the reasonable control of Arena.

**Regulatory Risks Associated with Leverage.** The Client may implement CLOs in order to secure leverage. The Risk Retention Rules require a sponsor or a "majority-owned affiliate" thereof of a securitization transaction, such as a CLO, to retain at least 5% of the economic interest in the credit risk of the securitized assets (the "Retention Interests").

**Under the U.S. Risk Retention Rules, a "majority-owned affiliate" of a sponsor may hold Retention Interests.** For purposes of satisfying obligations under the U.S. Risk Retention Rules, Arena, as asset manager (a "CLO Manager") of any CLO implemented by the Client, expects to retain, as sponsor, or to cause one of its "majority-owned affiliates" to retain, Retention Interests in each such CLO. There has been limited guidance regarding how entities may be structured for this purpose, and therefore the regulatory environment in which any such CLOs would operate is uncertain. There can be no assurance that applicable governmental authorities will agree that any of the transactions, structures or arrangements entered into by Arena, and the manner in which it expects to hold Retention Interests, will satisfy the U.S. Risk Retention Rules. If such transactions, structures or arrangements are determined not to comply with the U.S. Risk Retention Rules, Arena and the Client could become subject to regulatory action. The impact of the U.S. Risk Retention Rules on the securitization market is also unclear and such rules may negatively impact the value of the CLOs and their underlying assets.

**Financing Arrangements; Availability of Credit.** To the extent the Client uses leverage, the Client will depend on the availability of credit in order to finance its portfolio. There can be no assurance that the Client will be able to maintain adequate financing arrangements under all market circumstances. As a general matter, certain of the dealers that provide financing to the Client may be able to apply essentially discretionary margin, haircut,

financing, security and collateral valuation policies. Changes by dealers in such financing policies, or the imposition of other credit limitations or restrictions, whether due to market circumstances, idiosyncratic lender behavior in response to market circumstances or governmental, regulatory or judicial action, may result in large margin calls, loss of financing, forced liquidation of positions at disadvantageous prices, termination of swap and repurchase agreements and cross-defaults to agreements with other dealers. Any such adverse effects may be exacerbated if such limitations or restrictions are imposed suddenly and/or by multiple market participants at or about the same time.

To help mitigate the risk noted above, the Client may enter into term margin agreements with certain of its counterparties. However, there can be no assurance that the counterparty will be in a position or willing to honor such agreement or that the Client will be in a position to utilize such agreement.

**Investments in Restricted Securities.** The Client may be prevented from buying or selling certain publicly traded securities if the Arena or the Client acquires material, non-public information with respect to such securities. In addition, if such information is acquired with respect to a publicly traded security that the Client already holds, such security will be placed on a “restricted securities list” maintained by the Arena and will not be traded until the material, non-public information becomes public or is no longer material. Accordingly, the Client may be disadvantaged due to its inability to participate in investments that would otherwise be suitable for the Client or to liquidate existing investments during favorable market conditions.

**Counterparty Risk.** Institutions, such as brokerage firms, banks and broker-dealers, generally have custody of the Client’s portfolio assets and may hold such assets in “street name.” The Client is subject to the risk that these firms and other brokers, counterparties, clearinghouses or exchanges with which the Client deals may default on their obligations to the Client. Any default by any of such parties could result in material losses to the Client. Bankruptcy or fraud at one of these institutions could also impair the operational capabilities or the capital position of the Client. In addition, securities and other assets deposited with custodians or brokers may not be clearly identified as being assets of the Client, causing the Client to be exposed to a credit risk with regard to such parties. The Client will only be an unsecured creditor of its trading counterparties in the event of bankruptcy or administration of such counterparties. In some jurisdictions, the Client may also only be an unsecured creditor of its brokers in the event of bankruptcy or administration of such brokers. The Client attempts to limit its brokerage and custody transactions to well capitalized and established banks and brokerage firms in an effort to mitigate such risks, but the collapse in 2008 of the seemingly well capitalized and established Bear Stearns and Lehman Brothers demonstrates the limits on the effectiveness of this approach in avoiding counterparty losses.

The Client may effect transactions in “over-the-counter” or “interdealer” markets. The

participants in such markets are typically not subject to the same level of credit evaluation and regulatory oversight as are members of “exchange-based” markets. This exposes the Client to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a dispute over the terms of the contract (whether or not bona fide) or because of a credit or liquidity problem, thus causing the Client to suffer a loss. Such “counterparty risk” is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where the Client has concentrated its transactions with a single or small group of counterparties. The Client is not restricted from dealing with any particular counterparty or in the size of the exposure which the Client may provide to a given counterparty. The inability to make complete and “foolproof” evaluations of the financial capabilities of the Client’s counterparties and the absence of a regulated market to facilitate settlement increases the risk to the Client.

While the Reform Act is intended to bring more stability and lower counterparty risk to derivatives markets by requiring exchange clearing of derivatives trades, not all of the Client’s trades will be subject to the clearing requirements once they generally become effective, either because the trades are grandfathered or because they are bespoke. Furthermore, it is yet to be seen whether the Reform Act will be effective in reducing counterparty risk or if such risk may actually increase as a result of market uncertainty, mutuality of loss to clearinghouse members, or other reasons.

**Auditor Risk.** In auditing the Client, the Client’s auditor may not discover errors or miscalculations, including those arising from fraud. As a result, the Client’s auditor may issue an unqualified opinion or report despite the existence of such errors or miscalculations, either of which can have an adverse effect on a Limited Partner’s returns. Conversely, an error by an auditor could cause lenders and other counterparties to impose unnecessarily stringent requirements on the Client, which could have an adverse effect on the Client’s performance.

**Alternative Investment Client Managers Directive.** The AIFMD took effect at a national level within the member states of the European Union (the “EU”) on July 22, 2013. The AIFMD imposes new requirements on both EU and non-EU alternative investment Client managers which market alternative investment Clients to professional investors within the EU.

In particular, the AIFMD requires suitable cooperation agreements to be in place as between the relevant regulators of the United States and each EU member state in which Interests are being marketed, the absence of which will restrict the ability of the Arena to offer Interests to investors in such EU member states and may therefore limit the Arena’s ability to attract investors based in the EU. In parallel, member states of the EU are contemplating changing their domestic private placement rules, which may also restrict the ability of the Arena in similar ways. The AIFMD will also impose additional disclosure and reporting requirements in relation to the Client and its investments, compliance with which may

involve additional costs.

More generally, implementation of the AIFMD (and/or the interpretation thereof) could expose the Arena and/or the Client to conflicting regulatory requirements in the United States and the EU and its member states. In addition, the final scope and requirements of the AIFMD remain uncertain and are subject to change as a result of enactment of national implementing legislation in EU member states.

### *Investment Risks*

**Investments of the Client.** The Client may invest in a very broad array of financial instruments. There is no material limitation on the instruments in which the Client may invest – consistent with the Client’s investment strategy. The choice of investment instruments can materially affect the results of the Client. Even if the Arena correctly predicts future market movements, certain instruments may respond unexpectedly to such movements, resulting in unanticipated losses.

**Investments in Undervalued Securities.** While investments in undervalued securities offer the opportunities for above-average capital appreciation, these investments may involve a high degree of financial risk and could result in substantial losses. Returns generated from the Client’s investments may not adequately compensate for the business and financial risks assumed. The Client will make certain investments in securities which the Arena believes to be undervalued. However, there are no assurances that the securities purchased will in fact be undervalued. In addition, the Client may be required to hold such securities for a substantial period of time before realizing their anticipated value. During this period, a portion of the Client’s capital would be committed to the securities purchased, thus possibly preventing the Client from investing in other opportunities. In addition, the Client may finance such purchases with borrowed Clients and thus will have to pay interest on such Clients during such waiting period.

### *Loan and Loan-Related Investments*

**Loan Origination.** Arena, on behalf of Clients may seek to originate loans, including but not limited to, secured and unsecured notes, senior and second lien loans, mezzanine loans and other similar investments. The Client will, either directly or indirectly, retain all fees received in connection with originating or structuring the terms of any such investment. The Client may subsequently offer such investments for sale to third parties, which could include certain other Arena-managed investment Clients or separate accounts. 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 or 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 such an investment, the Client may take into consideration the fact that it may sell, assign or offer participations in such investments to the third 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.

**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 the Client to perfect or effectuate a lien on the collateral securing the loan. The Client will rely upon the accuracy and completeness of representations made by borrowers to the extent reasonable but cannot guarantee such accuracy or completeness.

**Bank Loans and Participations.** The 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, the 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 the Standard of Care by the Arena or its affiliates, will be borne by the Client.

The 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.

The 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.

From time to time, the Arena may cause the Client to acquire certain assets through participation and sub-participation arrangements with unaffiliated third parties. Such arrangements may expose the Client to additional credit risk compared to acquiring the

asset directly because, in addition to the underlying credit risk of the asset, the Client is exposed to the risk of the direct participant defaulting on its obligations to the Client under the participation or sub-participation arrangement.

**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 the 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.

**Agency Provisions.** Agency provisions in the loans acquired by the Client may impair enforcement actions against the collateral and expose the Client to losses on the loans. The loans may consist of agented loans. Under the underlying loan agreement with respect to agented loans, the loan originator or another financial institution may be designated as the administrative agent and/or collateral agent. Under these arrangements, the borrower grants a lien to such agent on behalf of the lenders and directs payments to such agent, which, in turn, will distribute payments to the lenders, including the Client. The agent is responsible for administering and enforcing the loan and generally may take actions only in accordance with the instructions from lenders holding a specified percentage in commitments or principal amount of the loan. In the case of loans that are part of a capital structure that includes both senior and subordinated loans, the agent may take such action in accordance with the instructions of one or more senior lenders without consultation with, or any right to vote (except in certain limited circumstances) by, the subordinated lenders. The loans held by the Client may represent less than the amount sufficient to compel such actions or may represent subordinated debt which is precluded from acting and, under such circumstances, the Client would only be able to direct such actions if instructions from the Client were made in conjunction with other lenders that together comprise the requisite percentage of lenders then entitled to take or direct the agent to take action. Conversely, if the required percentage of lenders other than the Client desire to take or direct the agent to take certain actions, such actions may be taken even if the Client did not support such actions. Furthermore, if a loan held by the Client is subordinated to one or more senior loans made to the borrower, the ability of the Client to exercise such rights may be subordinated to the exercise of such rights by the senior lenders. However certain actions, such as amendments to the material payment terms of the loans, typically may not be taken without consent of all lenders, including the Client. If the loan is a syndicated revolving loan or delayed draw term loan, other lenders may fail to satisfy their full contractual funding

commitments for such loan, which could create a breach of contract resulting in a lawsuit by the borrower against the lenders (including the Client even if it did not default) and adversely affect the fair market value of such loan.

There is a risk that an agent may become subject to insolvency proceedings. Such an event could delay, and possibly impair, the ability of the lenders for such agented loan to take any enforcement action against the related borrower or the collateral securing a loan and may require the lenders to take action in the agent's insolvency proceeding to realize on proceeds or payments made by borrowers that are in the possession or control of the agent.

In addition, it is expected that agented loans will allow for the agent to resign. Agented loans may or may not contain provisions for lenders to remove the agent. If an agent resigns or is removed, the lenders may be required to find, and the required percentage thereof agree to appoint, a successor agent that may be difficult to find or cost more than the predecessor agent.

**Cross-collateralization.** Certain of the loans may be cross-collateralized. Cross-collateralization arrangements may be subject to challenge, which could result in the subordination of the Client's interest in the collateral or the loan itself. Cross-collateralization arrangements involving more than one borrower could be challenged as fraudulent conveyances by creditors of the related borrower in an action brought outside a bankruptcy case or, if the borrower were to become a debtor in a bankruptcy case, by the borrower's representative (or the borrower as debtor-in-possession). If a court were to conclude that the granting of the liens to cross-collateralize a loan was a voidable fraudulent conveyance, such court could (a) subordinate all or part of the pertinent loan to existing or future indebtedness of that borrower, (b) recover payments made under that loan or (c) take other actions detrimental to the Client, including, under certain circumstances, invalidating the loan or the Client's interest in the collateral securing the cross-collateralized loan. Any of these actions could impair, delay or eliminate payments by the borrower of a loan that is cross-collateralized, which would adversely affect the returns expected by the Investors with respect to any such loan.

**Equitable Subordination.** Under common law principles that in some cases form the basis for lender liability claims, if a lender (a) intentionally takes an action that results in the undercapitalization of a borrower or issuer to the detriment of other creditors of such borrower or issuer, (b) engages in other inequitable conduct to the detriment of such other creditors, (c) engages in fraud with respect to, or makes misrepresentations to, such other creditors or (d) uses its influence as a stockholder to dominate or control a borrower or issuer to the detriment of other creditors of such borrower or issuer, a court may elect to subordinate the claim of the offending lender or bondholder to the claims of the disadvantaged creditor or creditors (a remedy called "equitable subordination"). The Client does not intend to engage in conduct that would form the basis for a successful cause of action based upon the equitable subordination doctrine; however, because of the nature of

the debt obligations, the Client may be subject to claims from creditors of an obligor that debt obligations of such obligor which are held by the issuer should be equitably subordinated.

**Risks of Acquiring Real Estate Loans and Participations.** Real estate loans acquired by the Client may be at the time of their acquisition, or may become after their acquisition, nonperforming for a wide variety of reasons. Such nonperforming real estate loans may require a substantial amount of workout negotiations and/or restructuring, which may entail, among other things, a substantial reduction in the interest rate and a substantial write-down of the principal of such loan. However, even if a restructuring were successfully accomplished, a risk exists that, upon maturity of such real estate loan, replacement “takeout” financing may not be available. Purchases of participations in real estate loans raise many of the same risks as investments in real estate and also carry risks of illiquidity and lack of control. It is possible that Arena may find it necessary or desirable to foreclose on collateral securing one or more real estate loans purchased by the Client. The foreclosure process varies jurisdiction by jurisdiction and can be lengthy and expensive. Borrowers often resist foreclosure actions by asserting numerous claims, counterclaims, and defenses, even when the assertions may have no basis in fact, in an effort to prolong the foreclosure process. In some states or other jurisdictions, foreclosure actions can take up to several years or more to conclude. During the foreclosure proceeding, a borrower may have the ability to file for bankruptcy, potentially staying the foreclosure action and further delaying the foreclosure process. Foreclosure litigation tends to create a negative public image of the collateral property and may result in disrupting ongoing leasing and management of the property.

**Investments in Loans Secured by Real Estate.** The Client may invest in loans secured by real estate (other than mortgage-backed securities) and may, as a result of default, foreclosure or otherwise, hold real estate assets. Special risks associated with such investments include change in the general economic climate or local conditions (such as an oversupply of space or a reduction in demand for space), competition based on rental rates, attractiveness and location of the properties, changes in the financial condition of tenants and changes in operating costs. Real estate values are also affected by such factors as governmental regulations (including those governing usage, improvements, zoning and taxes), interest rate levels, the availability of financing and potential liability under changing environmental and other laws. Of particular concern may be those mortgaged properties which are, or have been the site of manufacturing, industrial or disposal activities. Such environmental risks may give rise to a diminution in the value of property (including real property securing any portfolio investment) or liability for cleanup costs or other remedial actions, which liability could exceed the value of such property or the principal balance of the related portfolio investment. In certain circumstances, a lender may choose not to foreclose on contaminated property rather than risk incurring liability for remedial actions.

**Non-Performing Nature of Loans.** It is possible that certain of the loans purchased by the Client may be non-performing which may involve workout negotiations, restructuring and the possibility of foreclosure. These processes can be lengthy and expensive. Many of the NPLs will have been underwritten to “subprime,” “Alternative A-Paper” or “expanded” underwriting guidelines. These underwriting guidelines are different from and, in certain respects, less stringent than the other general underwriting standards employed by originators. For example, these loans may have been originated to borrowers that have poor credit or that provide limited or no documentation in connection with the underwriting of the mortgage loan. Such loans present increased risk standards of delinquency, foreclosure, bankruptcy and loss than prime mortgage loans. An originator generally originates mortgage loans in accordance with underwriting guidelines it has established and, in certain cases, based on exceptions to those guidelines. These guidelines may not identify or appropriately assess the risk that the interest and principal payments due on a mortgage loan will be repaid when due, or at all, or whether the value of the mortgaged property will be sufficient to otherwise provide for recovery of such amounts. To the extent exceptions were made to an originator’s underwriting guidelines in originating an NPL, those exceptions may increase the risk that principal and interest amounts may not be received or recovered and compensating factors, if any, which may have been the premise for making an exception to the underwriting guidelines may not in fact compensate for any additional risk.

**Investments in Secured Loans.** The assets of the portfolio of the Client will include secured debt, which involve 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 two tranches of secured debt outstanding each with secured debt on 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. Moreover, underlying assets are subject to credit,

liquidity, and interest rate risk.

**Certain Risks Associated with Investments in Residential Mortgage Loans and RMBS.** Market Disruptions and Distress. The residential mortgage market in the United States and elsewhere has, at certain times, experienced disruption and instability. Such disruptions may occur even during periods of broader economic recovery. Declines in the value of mortgaged properties may result in increases in delinquencies and losses on residential mortgage loans generally.

Residential mortgage loans (including the mortgage loans underlying an issue of RMBS) held by the Client are likely to include “non-traditional” mortgage loans, such as adjustable rate mortgage loans (or “ARMs”) – i.e., mortgage loans that offer relatively low monthly payments during the initial years of the loan that increase (often significantly) in later years – or mortgage loans that require large “balloon” payments at specified times (unlike traditional, “self-amortizing” mortgage loans). Many borrowers enter into non-traditional mortgage loans with the hope that they will be able to refinance, or resell the underlying property, before the increased interest payments or balloon payments become due. Stress in the real estate markets, including declines in housing prices may, however, make these refinancings or resales commercially unfeasible or impossible. This, in turn, may contribute to higher delinquency rates and losses on mortgage loans (and mortgage loans underlying RMBS) held by the Client, which would adversely affect the Client’s performance.

Under current market conditions, it is likely that many of the residential mortgage loans purchased by the Client will have loan-to-value ratios in excess of 100%, meaning that the amount owed on the mortgage loan exceeds the value of the underlying real property. Further, the borrowers on these mortgage loans may be in economic distress and/or may have become unemployed, bankrupt or otherwise unable or unwilling to make payments when due. Even though it is anticipated that the Client will pay less than the amount owed on these mortgage loans to acquire them, if actual results are different from the Client’s assumptions in determining the price for these mortgage loans, then the Client may incur significant losses.

In connection with the disposition of mortgage loans, the Client may be required to make representations about the mortgage loans, including with respect to matters that the Client may be unable to diligence. Such transactions may also require the Client to indemnify the purchaser to the extent that any such representations turned out to be incorrect, incomplete or misleading. These arrangements may result in contingent liabilities, which ultimately may be paid by the Client.

**Applicable Law and Regulations.** State and federal laws, public policy and general principles of equity relating to the protection of consumers, abusive debt collection practices, and unfair, discriminatory and deceptive practices generally may apply to the origination, servicing and collection of the Client’s residential mortgage loans and

residential mortgage loans backing the Client's RMBS. Violations of these laws, policies and principles (including violations that occurred period to the Client's ownership of the relevant asset) may limit the ability of the Client (or, as applicable, the issuer of RMBS) to collect all or part of the principal of or interest on the mortgage loans, may entitle a borrower to a refund of amounts previously paid, and could subject the owner of a mortgage loan to damages and administrative enforcement.

Numerous laws, regulations and rules related to the servicing of mortgage loans, including in respect of foreclosure actions, have been enacted and/or proposed by federal, state and local governmental authorities, including the newly formed Consumer Financial Protection Bureau created under the Reform Act. Such laws, regulations and rules may delay foreclosure processes, reduce payments by borrowers or increase reimbursable servicing expenses, which in turn would likely result in delays and reductions in the distributions to be made to the Client as the owners of residential mortgage loans or as an investor in RMBS and/or collateralized debt obligations backed by RMBS. In addition, the rate of foreclosures of properties backing subprime loans in certain states may prompt legislators, regulators and attorney general in those states to try to prevent certain foreclosures and bring lawsuits against participants in the financing of subprime loans in their states, including issuers of RMBS backed by such loans and investors in those RMBS, including the Client. The Client and other similarly-situated investors will bear the risk that future regulatory developments will result in losses on their investments, whether due to delayed or reduced distributions or reduced market value.

**Risks Associated with Servicers and Third Party Service Providers.** Mortgage loans owned by the Client are serviced by one or more third party servicers. As mentioned directly above, mortgage servicers are subject to numerous laws, regulations and rules. The Client may not be able to successfully detect and prevent violations of such laws or, more generally, fraud or incompetence by such third parties, which could expose the Client to material liability. Terminating a mortgage servicer is a cumbersome process, which could result in delays in realizing the Client's investment strategies, thereby adversely affecting returns.

Whether relating to the Client's investments in mortgage loans or RMBS, the relevant servicer generally is required to make advances in respect of delinquent mortgage loans. However, servicers experiencing financial difficulties may not be able to perform these obligations. Servicers who have sought bankruptcy protection may, due to application of the provisions of bankruptcy law, not be required to advance such amounts. Even if a servicer were able to advance amounts in respect of delinquent mortgage loans, its obligation to make such advances may be limited to the extent that it does not expect to recover such advances due to the deteriorating credit of the delinquent mortgage loans. In addition, a servicer's obligation to make such advances may be limited to the amount of its servicing fee.

Additional third parties will be retained to provide services in respect of the Client's mortgage loan investments, which services may include those relating to evaluating loss mitigation strategies, assisting with valuation of underlying properties, assisting with foreclosures or general management of the loans. The Client's investments could be negatively affected by the actions taken, or advice given, by such third parties.

On January 10, 2014, a set of rules issued by the U.S. Consumer Financial Protection Bureau went into effect. These rules require mortgage servicers to (i) warn borrowers before any interest rate adjustments on their mortgage loans and provide alternatives for borrowers to consider, (ii) provide monthly mortgage statements that explicitly breakdown principal, interest, fees, escrow and due dates, (iii) provide options for avoiding lender-placed, or "force-placed" insurance, (iv) provide early outreach to borrowers in danger of default regarding options to avoid foreclosure, (v) provide that payments be credited to borrower accounts the day they are received, (vi) require borrower account records be kept current, (vii) provide increased accessibility to servicing staff and records for borrowers and (viii) investigate errors within 30 days and improve staff accessibility to consumers, among other things. The new rules may cause servicers, including the Client's servicer, to modify their servicing processes and procedures and to incur additional costs in connection therewith.

**Violation of Various Federal, State and Local Laws May Result in Losses on Residential Mortgage Loans.** Numerous federal and state consumer protection laws impose substantive requirements upon residential mortgage lenders in connection with the origination, servicing and enforcement of mortgage loans. There has been significant attention from state and federal banking regulatory agencies, state attorney general, the U.S. Federal Trade Commission, the U.S. Department of Justice, the U.S. Department of Housing and Urban Development, the U.S. Consumer Financial Protection Bureau and state and local governmental authorities regarding certain lending practices by some companies in the subprime industry, sometimes referred to as "predatory lending" practices. Sanctions have been imposed by state, local and federal governmental agencies for practices including, but not limited to, charging borrowers excessive fees, imposing higher interest rates than the borrower's credit risk warrants and failing to adequately disclose the material terms of loans to the borrowers. Sanctions could adversely affect the value of any investment by the Client in a mortgage loan.

Applicable state and local laws generally regulate interest rates and other charges, require certain disclosure, impact closing practices, and require licensing of originators. In addition, other state and local laws, public policy and general principles of equity relating to the protection of consumers, unfair and deceptive practices and debt collection practices may apply to the origination, ownership, servicing and collection of such residential mortgage loans. Such laws can increase the costs of compliance in connection with such investments and ultimately undermine the profitability of such investments.

**Certain Risks Associated with Investments in CMBS.** The underlying commercial mortgage loans in an issue of CMBS held by the Client will be backed by obligations (including participation interests in obligations) that are principally secured by mortgage loans on real property (or interests therein) having a multifamily or commercial use, including regional malls or other retail space, office buildings, industrial or warehouse properties, hotels, apartments, cooperatives, nursing homes and senior living centers. Commercial mortgage loans are generally nonrecourse loans, lack standardized terms, tend to have shorter maturities than residential mortgage loans and may provide for the payment of all or substantially all of the principal only at maturity. Commercial properties also tend to be unique and are more difficult to value than single-family residential properties. The types of property securing commercial mortgage loans, and the ways that those properties are used, can also create special risks. For instance, commercial properties that operate as hospitals and nursing homes may present special risks to lenders due to the significant governmental regulation of the ownership, operation, maintenance and financing of health care institutions. Hotel and motel properties are often operated pursuant to franchise, management or operating agreements, which may be terminable by the franchisor or operator, and may be subject to complex local licensing requirements.

The repayment of loans secured by income-producing commercial properties is typically dependent on the successful operation of those properties rather than upon the liquidation value of the underlying real estate or the existence of independent income or assets of the borrower. The net operating income from commercial properties is subject to volatility, however, and may not be sufficient to cover debt service on the related mortgage loan at any given time. Furthermore, the net operating income from, and value of, any commercial property may be adversely affected by risks generally incidental to interests in real property, including events that the borrower or manager of the property, or the issuer or servicer of the related issuance of CMBS, may be unable to predict or control, such as changes in general or local economic conditions and specific industry segments; declines in real estate values; declines in rental or occupancy rates; increases in interest rates, real estate tax rates and other operating expenses; changes in governmental rules, regulations and fiscal policies; natural disasters; acts of war; acts of terrorism; and social unrest and civil disturbances. The value of commercial real estate is also subject to a number of laws, such as laws regarding environmental clean-up and limitations on remedies imposed by bankruptcy laws and state laws regarding foreclosures and rights of redemption.

Mortgage loans underlying a CMBS issue may lack regular amortization of principal, resulting in a single “balloon” payment due at maturity. If the underlying mortgage borrower experiences business problems, or other factors limit refinancing alternatives, these balloon payment mortgage loans are likely to experience payment delays or even default. In addition, the mortgage loans underlying a CMBS issue may lack diversification and may relate to a single loan or a limited number of loans.

**Peer-to-Peer/Marketplace Lending.** Peer-to-peer/marketplace lending allows individuals and increasingly, institutional investors, to lend money to others via an online platform. The

borrowers on such platforms are a wide range of individuals and businesses, and the Client's ability to assess their creditworthiness may be limited. While lending on a peer-to-peer platform can generate high returns, it is subject to many risks, including the risk that the Client could lose its entire investment if a borrower defaults or if the lending and/or loan servicing platform itself ceases operations. In the event of a default, certain lending platforms offer lenders almost no chance of recovery. In addition, peer-to-peer loans are relatively illiquid investments. In many cases it is difficult or impossible for the lender to get its money back before a loan matures, even absent a default.

### *Other Investments*

**Nature of Bankruptcy Proceedings.** There are a number of significant risks when investing in companies involved, or which may have been involved, in bankruptcy proceedings, including the following: First, many events in a bankruptcy are the product of contested matters and adversary proceedings which are beyond the control of the creditors. Second, a bankruptcy filing may have adverse and permanent effects on a company. For instance, the company may lose its market position and key employees and otherwise become incapable of restoring itself as a viable entity. Further, if the proceeding is converted to a liquidation, the liquidation value of the company may not equal the liquidation value that was believed to exist at the time of the investment. Third, the duration of a bankruptcy proceeding is difficult to predict. A creditor's return on investment can be impacted adversely by delays while the plan of reorganization is being negotiated, approved by the creditors and confirmed by the bankruptcy court, and until it ultimately becomes effective. Fourth, certain claims, such as claims for taxes, wages and certain trade claims, may have priority by law over the claims of certain creditors. Fifth, the administrative costs in connection with a bankruptcy proceeding are frequently high and will be paid out of the debtor's estate prior to any return to creditors. Sixth, creditors can lose their ranking and priority in a variety of circumstances, including if they exercise "domination and control" over a debtor and other creditors can demonstrate that they have been harmed by such actions. Seventh, investors in the company may be subject to a court-imposed "cram down" in which they lose their seniority in the capital and security interest structure. Eighth, the Client may seek representation on creditors' committees and as a member of a creditors' committee it may owe certain obligations generally to all similarly situated creditors that the committee represents and may be exposed to liability to such other creditors who disagree with the Client's actions. There can be no assurance that the Client would be successful in obtaining results most favorable to it in such proceedings, although the Client may incur significant legal fees and other expenses in attempting to do so. The Client may also be subject to various trading or confidentiality restrictions. In addition, the Client and some of the Arena's other Clients may potentially hold conflicting positions in relation to investments in companies involved in bankruptcy proceedings.

Investment in the debt of financially distressed companies domiciled outside the United States involves additional risks. Bankruptcy law and process may differ substantially from

that in the United States, resulting in greater uncertainty as to the rights of creditors, the enforceability of such rights, reorganization timing, and the classification, seniority and treatment of claims.

**Short Sales.** The Client may make short sales in any type of securities for profit in anticipation of a change in the market price of a financial instrument or as a hedge against other positions held by the Client. Short sales that are not made “against the box” and are not part of a hedging transaction create opportunities to increase return but, at the same time, are speculative and involve special risk considerations. Since the seller in effect profits from a decline in the price of the securities sold short without the need to invest the full purchase price of the securities on the date of the short sale, returns tend to increase more when the securities sold short decrease in value, and to decrease more when the securities sold short increase in value, than would otherwise be the case if the seller had not engaged in such short sales. Short sales theoretically involve unlimited loss potential, as the market price of securities sold short may continuously increase, although the Client may mitigate such losses by replacing the securities sold short before the market price has increased significantly. Under adverse market conditions, the Client might have difficulty purchasing securities to meet its short sale delivery obligations and might have to sell portfolio securities to raise the capital necessary to meet its short sale obligations at a time when fundamental investment considerations would not favor such sales.

As a result of the financial disruptions, which began in the second half of 2008, it appears likely that there may be significant additional restrictions imposed on short-selling (at least of certain issuers’ securities).

**Hedging Transactions.** Hedging techniques involve one or more of the following risks: (i) imperfect correlation between the performance and value of the instrument and the value of the Client securities or other objective of the Arena; (ii) possible lack of a secondary market for closing out a position in such instrument; (iii) losses resulting from interest rate, spread or other market movements not anticipated by the Arena; (iv) the possible obligation to meet additional margin or other payment requirements, all of which could worsen the Client’s position; and (v) default or refusal to perform on the part of the counterparty with which the Client trades. Furthermore, to the extent that any hedging strategy involves the use of over-the-counter (“OTC”) derivatives transactions, such a strategy would be affected by implementation of the various regulations adopted pursuant to the Reform Act.

The Arena will not attempt to hedge all market or other risks inherent in the Client’s positions, and will hedge certain risks, if at all, only partially. Specifically, the Arena may choose not, or may determine that it is economically unattractive, to hedge certain risks — either in respect of particular positions or in respect of the Client’s overall portfolio. The Client’s portfolio composition will commonly result in various directional market risks remaining unhedged. The Arena may rely on diversification to control such risks to the extent that the Arena believes it is desirable to do so; however, the Client is not subject to formal diversification policies.

The ability of the Client to hedge successfully will depend on the ability of the Arena to predict relevant market movements, which cannot be assured. The Arena is not required to hedge and there can be no assurance that hedging transactions will be available or, even if undertaken, will be effective. In addition, it is not possible to hedge fully or perfectly against currency fluctuations affecting the value of securities denominated in non-U.S. currencies because the value of those securities is likely to fluctuate as a result of independent factors not related to currency fluctuations. Moreover, it should be noted that the portfolio will always be exposed to certain risks that cannot be hedged, such as counterparty credit risk. Furthermore, by hedging a particular position, any potential gain from an increase in the value of such position may be limited.

**Credit Default Swaps.** The Client may invest in credit default swaps. A credit default swap is a contract between two parties which transfers the risk of loss if a company fails to pay principal or interest on time or files for bankruptcy. Credit default swaps can be used to hedge a portion of the default risk on a single corporate bond or a portfolio of bonds. In addition, credit default swaps can be used to implement the General partner's view that a particular credit, or group of credits, will experience credit improvement. The credit default swap market in high yield securities is comparatively new and rapidly evolving compared to the credit default swap market for more seasoned and liquid investment grade securities. Swap transactions dependent upon credit events are priced incorporating many variables including the pricing and volatility of the common stock, and potential loss upon default, among other factors. As such, there are many factors upon which market participants may have divergent views.

Because the master and credit support agreements for over-the-counter swap transactions are individually negotiated with a specific counterparty, there exists the risk that the parties may interpret contractual terms (e.g., the definition of default) differently when the Client seeks to enforce its contractual rights. If that occurs, the Client may be forced to seek to enforce its contractual rights through legal proceedings, which may be costly and time consuming.

**Collateralized Debt Obligations ("CDOs"); Collateralized Loan Obligations ("CLOs"); Collateralized Mortgage Obligations ("CMOs").** The Client may invest in CDOs, CLOs and CMOs. The portfolio may consist of CLO equity, multi-sector CDO equity, trust preferred CDO equity and CLO mezzanine debt. CDOs are subject to credit, liquidity and interest rate risks. The CDO equity purchased by the Client will most likely be unrated or non-investment grade, which means that a greater possibility that adverse changes in the financial condition of an issuer or in general economic conditions or both may impair the ability of the related issuer or obligor to make payments of principal or interest. Such investments may be speculative. In addition, as a holder of CDO equity, the Client will have limited remedies available upon the default of the CDO. In the recent past, the market for CDOs has become highly illiquid resulting in severe declines of the prices of such

instruments.

**Lending Against Equipment.** In a loan against equipment transaction, also known as a sale leaseback, equipment is sold on paper by the seller and leased back. The seller obtains working capital and keeps the equipment on their property. As with equipment leasing, there are considerable costs associated with terminating such loans and retrieving hard assets if a borrower fails to make timely payments on the loan. Further, the value of the subject equipment will decline over time as a result of use by the borrower, reducing the value of the collateral backing the loan and increasing the risk that the Client will lose money in the event of borrower default. The Client may also engage in equipment leasing, which may expose the Investors to considerable risk. In cases of a non-performing lessee, there are considerable costs associated with terminating leases and retrieving hard assets that can disrupt and reduce cash flow. These risks may be exacerbated in the case of lessee bankruptcy. Further, it may be difficult to re-lease or sell retrieved equipment, depending on market conditions, especially if such equipment is outdated or has been misused.

**Currency and Foreign Risks.** The Client may, from time to time, invest in non-dollar denominated debt instruments or in securities of companies domiciled or operating outside of the United States. While this is not expected to be a significant portion of the Client's activities, investing in these securities involves considerations and possible risks not typically involved in investing in securities of companies domiciled and operating in the United States, including instability of some governments, capital controls, the possibility of expropriation, limitations on the use or removal of Clients or other assets, changes in governmental administration or economic or monetary policy (in the United States or abroad) or changed circumstances in dealings between nations. The application of tax laws applicable outside the United States (e.g., the imposition of withholding taxes on interest and dividend payments, income taxes and excise taxes) or confiscatory taxation may also affect the Client's investments. Moreover, less information may be publicly available concerning certain of the foreign issuers of securities held by the Client than is available concerning U.S. companies. The Client may incur higher expenses with respect to investments made outside the United States compared to investing in U.S. securities because of the costs incurred in connection with conversions between various currencies and the fact that brokerage commissions outside the United States may be higher than commissions in the United States. Non-U.S. markets also may be less liquid, more volatile and less subject to governmental supervision than in the United States.

**Recent Developments in Europe.** Global markets have experienced upheaval and above-average volatility due to political and economic developments in Europe that have raised doubts about the ability of certain European countries to meet their sovereign debt obligations, including the failure of Greece to pay interest on a portion of its outstanding bonds. The fallout from such developments could have a significant impact on the stability and credit ratings of various European countries and financial institutions with exposure to European sovereign debt, and even the continued viability of the European Union and the

Euro currency. There can be no assurance that the Arena will accurately predict or adequately prepare for the impact of such developments, and therefore they may have a materially negative effect on the Client's investments, particularly those made in European entities or denominated in the Euro currency.

**Mezzanine Debt Securities.** Mezzanine debt securities are generally unrated or below investment grade rated investments that have greater credit and liquidity risk than more highly rated debt obligations. Mezzanine debt securities are typically issued in traditional private placements or in connection with acquisitions and other business combinations and have no trading market. Moreover, mezzanine debt securities are generally unsecured and subordinate to other obligations of the obligor and are subject to many of the same risks as those associated with high yield debt securities. Adverse changes in the financial condition of the obligor of mezzanine debt securities or in general economic conditions (including, for example, a substantial period of rising interest rates or declining earnings) or both may impair the ability of the obligor to make payment of principal and interest. Issuers of mezzanine debt securities may be highly leveraged, and their relatively high debt to equity ratios create increased risks that their operations might not generate sufficient cash flow to service their debt obligations.

**Litigation Claims.** The Client may purchase, or may make loans based on, anticipated future payments to be received as the result of favorably determined litigation or mass tort claims. The results of pending litigation are inherently uncertain. Purchasing or lending against pending litigation entails unique risks because there is no guarantee that the relevant litigation will be favorably determined, and consequently that the Client's investment objective will be achieved. If the relevant litigation is determined (in a court or in an out-of-court settlement) in a manner that is adverse to the Client's interest, the Client may lose some or all of its investment.

**Aviation Investments.** Airline business and results of operations are significantly impacted by general economic and industry conditions. The airline industry is highly cyclical, and the level of demand for air travel is correlated to the strength of the U.S. and global economies. Robust demand for air transportation services depends on favorable economic conditions, including the strength of the domestic and foreign economies, low unemployment levels, strong consumer confidence levels and the availability of consumer and business credit. In addition, airlines are subject to extensive regulatory oversight. Compliance with U.S. and international regulations imposes significant costs and may have adverse effects on an airline.

In addition to factors linked to the aviation industry, other factors that may affect the value of an aircraft at any time include: (i) the particular maintenance and operating history of the related airframe and engines; (ii) manufacture and type or model of aircraft or engines, including the number of operators using such type or model; (iii) whether the aircraft is subject to a lease and, if so, whether the lease terms are favorable to the lessor; (iv) the age

of the aircraft; (v) the advent of newer models of such aircraft or aircraft types competing with such aircraft; (vi) any tax, customs, regulatory and legal requirements that must be satisfied when an aircraft is purchased, sold or re-leased; (vii) compatibility of aircraft configurations or specifications with other aircraft operated by operators of that type of aircraft; (viii) regulatory actions, including mandatory grounding of the aircraft; (ix) any renegotiation of a lease on less favorable terms; (x) decreases in creditworthiness of lessees; and (xi) the availability of spare parts. Any decrease in values of and lease rates for used commercial aircraft which may result from the above factors or other unanticipated factors may have a material adverse effect on the Client's investments.

**Shipping Investments.** The maritime shipping industry is both cyclical and volatile in terms of charter rates and profitability. A worsening of the current global economic conditions may adversely affect the Client's ability to charter or recharter its vessels or to sell them on the expiration or termination of their charters and the rates payable in respect of its currently operating vessels, or any renewal or replacement charters that the Client enters into may not be sufficient to allow it to operate its vessels profitably. Fluctuations in charter rates and vessel values result from changes in the supply and demand for vessel capacity and changes in the supply and demand for the products that such vessels carry. The factors affecting the supply and demand for vessels are outside of the Client's control, and the nature, timing and degree of changes in industry conditions are unpredictable.

**Trade Claims.** The Client may purchase trade claims, often in connection with the restructuring or bankruptcy of a debtor company over which the Client is trying to exercise influence. The Client might also acquire trade claims as a means of obtaining control over a debtor that is in the process of emerging from Chapter 11, with an intent to push for a Chapter 11 plan that converts debt to equity or to block acceptance of any Chapter 11 plan it opposes. By purchasing trade claims in connection with a bankrupt company, the Client could use this leverage to negotiate a more favorable Chapter 11 plan. Alternatively, the Client could retain the claim, anticipating that the present value of any distribution at the conclusion of the case will exceed the purchase price. Although trade claims may result in significant returns to the Client, they involve a substantial degree of risk. In order to make successful decisions regarding the objective in connection with the acquisition of trade claims, the level of analytical sophistication, both financial and legal, necessary to such decision-making is unusually high. In addition, if the Client has acquired trade claims with the objective of exercising influence over a distressed company or in a bankruptcy action, the expected timing can only be estimated and there may be significant delays which may affect the returns on such trade claim investments for the Client.

**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 the Client of borrowed securities and leveraged investments.

**Contrarian Investing.** The Arena believes the price of certain securities may become depressed to the point that the Arena believes that such securities have lower downside risk than other investors may perceive (i.e., an investment will generally be made only if it is believed that the current market price is less than the intrinsic value of the security, based on assumptions as to asset values, total liabilities or claims, timing and the rate of return on the investment), and the Client has made or will make certain investments in such securities. Because of the substantial uncertainty concerning the outcome of transactions involving financially troubled companies undergoing fundamental changes, there is always the potential risk of a substantial loss.

**Emerging Markets.** The Client may trade in emerging markets. These markets tend to be inefficient and illiquid as well as subject to political and other factors which do not typically affect more developed economies. The Client may sustain losses as a result of market inefficiencies or interference in emerging markets which would not take place in more developed markets.

**Correlation Risk.** The Client will tend to have a bias toward investments in which the Arena believes prices should ultimately hinge more on discrete, credit-specific events than the direction of the broader markets. However, in certain market environments (particularly those characterized by widespread perceptions of systemic risk), risk asset prices can display abnormal levels of correlation. The Client's returns could be adversely affected in scenarios like this, in which fundamental valuation metrics tend to be overwhelmed by other factors.

**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.

**Leverage of Portfolio Companies.** The Client's investments may include securities of companies with leveraged capital structures, which could be subject to increased exposure to adverse economic factors such as an increase in interest rates, a downturn in the economy or further deterioration in the economic conditions of such company or its industry. Similarly, the Client may invest in entities that are unable to generate sufficient cash flow to meet principal and interest payments on their indebtedness. Accordingly, the value of the Client's investment in such an entity could be significantly reduced or even eliminated due to further credit deterioration.

**No Limitations on Strategies.** There are no material limitations on the investment strategies which the Arena may use when investing assets on behalf of the Client. The Arena may opportunistically implement whatever strategies or discretionary approaches it believes from time to time may be best suited to prevailing market conditions. For some of these strategies, no specific “risk factors” are described in this Memorandum. Nevertheless, such strategies should be considered to be speculative, volatile and, in general, no less risky than other strategies more fully described in this Memorandum. Over time, the strategies implemented on behalf of the Client can be expected to expand, evolve and change, perhaps materially. The Arena will not be required to implement any particular strategies and may discontinue employing any particular strategy on behalf of the Client, whether or not such strategies are specifically described in this Memorandum, and without notice to investors. There can be no assurance that the various investment strategies which the Arena expects from time to time to develop and implement for the Client will be successful or that strategies that have been successful will continue to be profitable.

**Uncertain Exit Strategies; Duration of Investment Positions.** Despite performing an “expected duration analysis” on its target investments, the Arena may not know the maximum duration of any particular investment at the time of initiation. Due to the illiquid nature of some of the investments that the Client expects to make, the Arena is unable to predict with confidence what, if any, exit strategy for a given investment will ultimately be available for the Client. Exit strategies that appear to be viable at certain times during the life cycle of an investment may be precluded by the time the investment is ready to be realized due to economic, legal, political or other factors. The larger the transaction in which the Client is participating, the more uncertain the Client’s exit strategy tends to become. The length of time for which a position is maintained may vary significantly, based on Arena’s subjective judgment of the appropriate point at which to liquidate a position so as to augment gains or reduce losses. Many of the Client’s transactions may involve acquiring related positions in a variety of different instruments or markets at or about the same time. Frequently, optimizing the probability of being able to exploit the pricing anomalies among these positions requires holding periods of significant length—sometimes many months to a year or more. Actual holding periods depend on numerous market factors which can both expedite and disrupt price convergences. There can be no assurance that the Client will be able to maintain any particular position, or group of related positions, for the duration required to realize the expected gains, or avoid losses, from such positions.

**Expedited Transactions.** Investment analyses and decisions by the Arena may be undertaken on an expedited basis in order to make it possible for the Client to take advantage of short-lived investment opportunities. In such cases, the available information at the time of an investment decision may be limited, inaccurate and/or incomplete. Furthermore, the Arena is unlikely to have sufficient time to fully evaluate information which is available. There is a significantly increased risk of making poor investments when they are made on an expedited basis.

Inability to Participate in Certain Investments. The Arena has numerous business commitments and relationships worldwide. As a result of these commitments and relationships, there may be situations in which the Arena would otherwise take a control position in an issuer, or a position adverse to the management of an issuer, but will be prevented from doing so due to other holdings or may choose not to do so because of the potential adverse effects on such relationships, even if such position could prove advantageous for the Client.

**Investments by Affiliated Entities in the Same Borrower.** In the future, the Client may invest in loans held by or issued to other Arena Clients or issue loans to borrowers in which other Arena Clients also have an economic interest, which economic interest may be in a different debt tier or a different part of the capital structure. There is no limit on the number of additional Arena Investment Clients that may be established in the future to pursue lending and credit strategies. In certain instances, Arena Clients participating in a loan origination strategy (including the Client) and Arena Clients participating in other credit strategies may be in different tranches of the same financing. Debt investments of the Client may also include one or more revolving credit facilities. Portfolio borrowers may also have senior revolving facilities provided by one or more third parties. Under such scenarios, the Client and such other Arena Clients and accounts may have opposing interests and actions taken on behalf of another Arena Client or account may have an adverse effect on the interests of the Client.

### ***Derivatives Risks***

**Derivatives.** The Client may use various derivative instruments, such as options, futures, forwards, commodities, swaps and swaptions (including interest rate and credit default swaps). The use of derivative instruments involves a variety of material risks, including the extremely high degree of leverage sometimes embedded in such instruments. The derivatives markets are frequently characterized by limited liquidity, which can make it difficult as well as costly to close out open positions in order either to realize gains or to limit losses. The pricing relationships between derivatives and the instruments underlying such derivatives may not correlate with historical patterns, resulting in unexpected losses. Use of derivatives and other techniques such as short sales for hedging purposes involves certain additional risks, including: (i) dependence on the ability to predict movements in the price of the securities hedged; (ii) imperfect correlation between movements in the securities on which the derivative is based and movements in the assets of the underlying portfolio; and (iii) possible impediments to effective portfolio management or the ability to meet short-term obligations because of the percentage of a portfolio's assets segregated to cover its obligations. In addition, by hedging a particular position, any potential gain from an increase in the value of such position may be limited.

**Swap Agreements.** The Client expects from time to time to enter into various swap agreements ("Swaps") as part of its investment program. A Swap is an individually negotiated, non-standardized agreement between two parties to exchange cash flows (and

sometimes principal amounts) measured by different interest rates, commodity prices, exchange rates, indices or prices, with payments generally calculated by reference to a principal (“notional”) amount or quantity. Swaps and similar derivative contracts are not currently traded on exchanges; rather, banks and dealers act as principals in these markets. As a result, the Client is subject to the risk of the inability or refusal to perform with respect to such contracts on the part of the counterparties with which the Client trades. Swaps may be subject to various other types of risk, including market risk, liquidity risk, counterparty credit risk, legal risk and operations risk. In addition, Swaps can involve considerable economic leverage and may, in some cases, involve significant risk of loss. Depending on their structure, Swaps may increase or decrease exposure to the corporate credit market, equity securities, long-term or short-term interest rates, foreign currency values, corporate borrowing rates or other factors. Swaps can take many different forms and are known by a variety of names. The Client is not limited to any particular form of Swap if its use is consistent with the Client’s investment objectives and policies, and the Arena anticipates that the Client will invest in interest rate swaps, credit default swaps, total return swaps, variance swaps and other types of Swaps.

Depending on how they are used, Swaps may increase or decrease the overall volatility of a portfolio. The most significant factor in the performance of Swaps is the change in the specific interest rate, currency, equity index or other factors that determine the amounts of payments due to and from the Client. If a Swap calls for payments by the Client, the Client must be prepared to make such payments when due. In addition, if a counterparty’s creditworthiness declines, the value of a Swap with such counterparty can be expected to decline, potentially resulting in losses by the Client.

**Credit Default Swap Agreements.** The Client may invest in credit default swaps. The typical credit default swap contract requires the seller to pay to the buyer, if a particular reference entity experiences specified credit events, the difference between the notional amount of the contract and the value of a portfolio of securities issued by the reference entity that the buyer delivers to the seller. In return, the buyer agrees to make periodic payments equal to a fixed percentage of the notional amount of the contract. The Client may also sell credit default swaps on a basket of reference entities as part of a synthetic collateralized debt obligation transaction.

As a buyer of credit default swaps, the Client will be subject to certain risks in addition to those described elsewhere herein. In circumstances in which the Client does not own the debt securities that are deliverable under a credit default swap, the Client will be exposed to the risk that deliverable securities will not be available in the market, or will be available only at unfavorable prices, as would be the case in a so-called “short squeeze.” While the credit default swap market auction protocols reduce this risk, it is still possible that an auction will not be organized or will not be successful. In certain instances of issuer defaults or restructurings (for those credit default swaps for which restructuring is specified as a credit event), it has been unclear under the standard industry documentation for credit

default swaps whether or not a “credit event” triggering the seller’s payment obligation had occurred. The creation of the ISDA Credit Derivatives Determination Committee (the “Determination Committee”) is intended to reduce this uncertainty and create uniformity across the market, although it is possible that the Determination Committee will not be able to reach a resolution or do so on a timely basis. In either of these cases, the Client would not be able to realize the full value of the credit default swap upon a default by the reference entity.

As a seller of credit default swaps, the Client will incur leveraged exposure to the credit of the reference entity and become subject to many of the same risks it would incur if it were holding debt securities issued by the reference entity. However, the Client will not have any legal recourse against the reference entity and will not benefit from any collateral securing the reference entity’s debt obligations. In addition, the credit default swap buyer will have broad discretion to select which of the reference entity’s debt obligations to deliver to the Client following a credit event and will likely choose the obligations with the lowest market value in order to maximize the payment obligations of the Client.

Counterparty risk is always present in credit default swaps. The market for credit default swaps on distressed securities is not liquid (compared to the market for credit default swaps on investment grade corporate reference entities). If current interest rate spreads over LIBOR (or over the applicable United States Treasury Benchmark) widen or the prevailing credit premiums on credit default swaps increase, the amount of a termination or assignment payment upon a termination or assignment of a transaction due from the Client to the credit default swap counterparty could increase by a substantial amount.

In addition, the proper tax treatment of credit default swaps and other derivatives may not be clear. Investors generally are required to treat any such derivatives for U.S. federal income tax purposes in the same manner as they are treated by the Client. The tax environment for derivatives is evolving and changes in the taxation of derivatives may adversely affect the value of derivatives held by the Client.

Given the recent sharp increases in volume of credit derivatives trading in the market, settlement of such contracts may also be delayed beyond the time frame originally anticipated by counterparties. Such delays may adversely impact the Client’s ability to otherwise productively deploy any capital that is committed with respect to such contracts. Certain governmental entities have indicated that they intend to regulate the market in credit default swaps. It is difficult to predict the impact of any such regulation on the Client, but it may be adverse (including making the Client ineligible to be a “seller” of credit default swaps).

**Credit Default Swaps on Loans and LCDX Transactions.** The Client may invest in all types of loan credit default swaps (“LCDS”) and all types of LCDX transactions, a tradable index comprising 100 equally-weighted underlying single-name loan-only credit default swaps.

LCDS are similar to credit default swaps on bonds, except that the underlying protection is sold on syndicated secured loans of a reference entity rather than a broader category of bonds or loans. Buyers of protection pay a fixed coupon agreed at time of trade and receive compensation on the principal if the entity named on the contract defaults on its secured debt. The compensation will be par minus recovery either via the protection seller paying par in return for gaining possession of the loan or via cash settlement. Loan credit default swaps may be on single names or on baskets of loans, both tranching and untranching.

The Client may also invest in LCDX, which is the buying or selling of protection on 100 names that comprise the LCDX portfolio (i.e., the buying and selling of 100 single-name LCDS). Buying and selling the LCDX can be compared to buying and selling a loan portfolio. When the index is bought, the buyer is taking on the credit exposure to the loans and is exposed to defaults similar to when a loan portfolio is bought. If the index is sold, this exposure is passed on to someone else. The index has a fixed coupon, which is paid when the index is sold, or received if the index is bought. The credit events that generally trigger a payout from the buyer (protection seller) of the index are bankruptcy or failure to pay a scheduled payment on any debt (after a grace period), for any of the constituents of the index. Credit events can be settled by physical or cash settlement. Physical settlement entails delivering the loan and receiving par. The protection seller who took delivery of the loan holds the defaulted asset. Although this method is the traditional method of settlement, there are risks that the notional amounts of the outstanding loans is less than the LCDS outstanding and that the LCDX counterparty will be able to take receipt of the loans.

**Total Return Swaps.** The Client from time to time may invest in total return swaps. As a buyer of total return swaps, the Client will be obligated to make certain periodic payments in exchange for the total return on a referenced asset, including coupons, interest and the gain or loss on such asset over the term of the swap. The Client may be required to maintain collateral with the total return swap counterparty. If the Client fails to fulfill its payment obligations or fails to post any required collateral under a total return swap, the total return swap counterparty may declare an event of default and, as a result, the Client may be required to pay swap breakage fees, suffer the loss of the amounts paid to the counterparty and forego the receipts from the counterparty of further total return swap payments.

**Over-the-Counter Derivatives Markets.** The Reform Act, enacted in July 2010, includes provisions that comprehensively regulate the OTC derivatives markets for the first time. The Reform Act will ultimately mandate that a substantial portion of OTC derivatives must be executed in regulated markets and be submitted for clearing to regulated clearinghouses. OTC trades submitted for clearing will be subject to minimum initial and variation margin requirements set by the relevant clearinghouse, as well as possible SEC- or CFTC-mandated margin requirements. OTC derivatives dealers typically demand the unilateral ability to increase the Client's collateral requirements for cleared OTC trades beyond any regulatory and clearinghouse minimums. The regulators also have broad discretion to impose margin requirements on non-cleared OTC derivatives and new requirements will apply to the

holding of customer collateral by OTC derivatives dealers. These requirements may increase the amount of collateral the Client is required to provide and the costs associated with providing it. OTC derivative dealers also are required to post margin to the clearinghouses through which they clear their customers' trades instead of using such margin in their operations, as was widely permitted before the Reform Act. This has and will continue to increase the OTC derivative dealers' costs, and these increased costs are generally passed through to other market participants in the form of higher upfront and mark-to-market margin, less favorable trade pricing, and the imposition of new or increased fees, including clearing account maintenance fees.

With respect to cleared OTC derivatives, the Client will not face a clearinghouse directly but rather through an OTC derivatives dealer that is registered with the CFTC or SEC to act as a clearing member. The Client may face the indirect risk of the failure of another clearing member customer to meet its obligations to its clearing member. Such scenario could arise due to a default by the clearing member on its obligations to the clearinghouse, triggered by a customer's failure to meet its obligations to the clearing member.

The SEC and CFTC will also require a substantial portion of derivative transactions that are currently executed on a bi-lateral basis in the OTC markets to be executed through a regulated security, futures, or swap exchange or execution facility. Certain CFTC-regulated derivatives trades became subject to these rules starting in 2014. It is not yet clear when the parallel SEC requirements will go into effect. Such requirements may make it more difficult and costly for investment Clients, including the Client, to enter into highly tailored or customized transactions. They may also render certain strategies in which the Client might otherwise engage impossible or so costly that they will no longer be economical to implement. If the Client decides to become a direct member of one or more of these exchanges or execution facilities, the Client would be subject to all of the rules of the exchange or execution facility, which would bring additional risks and liabilities, and potential additional regulatory requirements.

OTC derivative dealers are now required to register with the CFTC and will ultimately be required to register with the SEC. Dealers are subject to new minimum capital and margin requirements, business conduct standards, disclosure requirements, reporting and recordkeeping requirements, transparency requirements, position limits, limitations on conflicts of interest, and other regulatory burdens. These requirements further increase the overall costs for OTC derivative dealers, which costs may be passed along to market participants as market changes continue to be implemented. The overall impact of the Reform Act on the Client remains highly uncertain and it is unclear how the OTC derivatives markets will adapt to this new regulatory regime, along with additional, sometimes overlapping, regulatory requirements imposed by non-U.S. regulators.

**Convertible Securities, Rights and Warrants.** The Client may invest in hybrid securities that may be exchanged for, converted into or exercised to acquire a predetermined number

of shares of an issuer's common stock at the option of the holder during a specified time period (such as convertible preferred stocks, convertible debentures, stock purchase rights, and warrants). Convertible securities generally pay interest or dividends and provide for participation in the appreciation of the underlying common stock but at a lower level of risk because the yield is higher and the security is senior to common stock. Convertible debt securities purchased by the Client that are acquired for their equity characteristics are not subject to minimum rating requirements.

The value of a convertible security is a function of its "investment value" (determined by its yield in comparison with the yields of other securities of comparable maturity and quality that do not have a conversion privilege) and its "conversion value" (the security's worth, at market value, if converted into the underlying common stock). The credit standing of the issuer and other factors may also affect the investment value of a convertible security. If the conversion value is low relative to the investment value, the price of the convertible security is governed principally by its investment value. To the extent the market price of the underlying common stock approaches or exceeds the conversion price, the price of the convertible security is increasingly influenced by its conversion value.

Convertible securities may also include warrants, often publicly traded, that give a holder the right to purchase at any time during a specified period a predetermined number of shares of common stock at a fixed price but that do not pay a fixed dividend. Their value depends primarily on the relationship of the exercise price to the current and anticipated price of the underlying securities.

**Futures Trading.** The Client may trade futures contracts, including stock index futures. Futures prices are highly volatile, with price movements being influenced by a multitude of factors such as changing supply and demand relationships, government trade, fiscal, monetary and exchange control programs and policies, national and international political and economic events and speculative frenzy and the emotions of the marketplace. In addition, governments from time to time intervene in certain markets, particularly currency and interest-rate markets.

The low margin deposits normally required in futures trading permit an extremely high degree of leverage; margin requirements for futures trading being in some cases as little as 2% of the face value of the contracts traded. Accordingly, a relatively small price movement in a futures contract may result in an immediate and substantial loss to the investor.

There can be no assurance that a liquid market will exist at a time when the Client seeks to close out an option position, future or Swap. Most U.S. commodity exchanges limit fluctuations in futures contract prices during a single day by regulations referred to as "daily limits." During a single trading day, no trades may be executed at prices beyond the daily limit. Once the price of a futures contract has increased or decreased to the limit point, positions can be neither taken nor liquidated. Futures prices have occasionally moved to the daily limit for several consecutive days with little or no trading. Similar occurrences could

prevent the Client from promptly liquidating unfavorable positions and subject the Client to substantial losses. In addition, certain of these instruments are relatively new and are without a significant trading history. As a result, there is no assurance that an active secondary market will develop or continue to exist. Lack of a liquid market for any reason may prevent the Client from liquidating an unfavorable position and the Client would remain obligated to meet margin requirements until the position is closed.

The CFTC and the U.S. commodities exchanges impose limits referred to as “speculative position limits” on the maximum net long or net short speculative positions that any person may hold or control in any particular futures or options contracts traded on U.S. commodities exchanges. For example, the CFTC currently imposes speculative position limits on a number of agricultural commodities (e.g., corn, oats, wheat, soybeans and cotton) and U.S. commodities exchanges currently impose speculative position limits on many other commodities. The Reform Act significantly expands the CFTC’s authority to impose position limits with respect to futures contracts and options on futures contracts, swaps that are economically equivalent to futures or options on futures, and swaps that are traded on a regulated exchange and certain swaps that perform a significant price discovery function. In response to this expansion of its authority, in 2012, the CFTC proposed a series of new speculative position limits with respect to futures and options on futures on so-called “exempt commodities” (which includes most energy and metals contracts) and with respect to agricultural commodities. Those proposed speculative position limits were vacated by a United States District Court, but the CFTC has again proposed a new set of speculative position rules which are not yet finalized (or effective). If the CFTC is successful in this second try, the counterparties with which the Client deals may further limit the size or duration of positions available to the Client. All accounts owned or managed by the Arena are likely to be combined for speculative position limit purposes. The Client could be required to liquidate positions it holds in order to comply with such limits or may not be able to fully implement trading instructions generated by its trading models, in order to comply with such limits. Any such liquidation or limited implementation could result in substantial costs to the Client.

**Options Trading.** When purchasing or selling an option, the risks associated with the transaction will vary depending on the type of option (i.e., put or call). When purchasing an option, it is necessary to calculate the extent to which the value of the underlying security must increase (in the case of a call) or decrease (in the case of a put) in order for the Client’s position to become profitable, taking into account the premium and all transaction costs. The purchaser of options may offset or exercise the options or allow the options to expire. The exercise of an option results either in a cash settlement or in the purchaser acquiring or delivering the underlying interest. If the option is on a future, the purchaser will acquire a futures position with associated liabilities for margin. If the purchased option expires worthless, the Client will suffer a total loss of the amount invested in the option that will consist of the option premium plus transaction costs.

Selling (“writing” or “granting”) an option generally entails considerably greater risk than purchasing options. Although the premium received by the seller is fixed, the seller may sustain a loss well in excess of that amount. The seller will be liable for additional margin to maintain the position if the market moves unfavorably. The seller will also be exposed to the risk of the purchaser exercising the option, and, upon such exercise, the seller will be obligated to either settle the option in cash or to acquire or deliver the underlying interest, depending on the terms of the option. If the option is on a future, upon exercise by the purchaser of the option, the seller will acquire a position in a future with associated liabilities for margin. If the option is “covered” by the seller holding a corresponding position in the underlying interest or a future or another option, the risk may be reduced. If the option is not covered, the risk of loss can be unlimited. In the case of an option on a future, certain exchanges in some jurisdictions permit deferred payment of the option premium, exposing the purchaser to liability for margin payments not exceeding the amount of the premium. The purchaser is still subject to the risk of losing the premium and transaction costs. When the option is exercised or expires, the purchaser is responsible for any unpaid premium outstanding at that time.

**Forward Contracts.** The Client may trade forward contracts in the inter-bank currency market. Certain forward contracts may be traded on exchanges; however, forward contracts that are not traded on an exchange are traded via banks and/or dealers who act as principals in these markets. As a result of the Reform Act, the CFTC now regulates non-deliverable forwards (including deliverable forwards where the parties do not take delivery). Changes in the forward markets may entail increased costs and result in burdensome reporting requirements. There is currently no limitation on the daily price movements of forward contracts. Principals in the forward markets have no obligation to continue to make markets in the forward contracts traded. The imposition of credit controls by governmental authorities or the implementation of regulations pursuant to the Reform Act might limit such forward trading to less than that which the Arena would otherwise recommend, to the possible detriment of the Client.

**Regulatory Developments Related to Commodities Trading.** The Client’s trading activities may be impacted by regulatory developments related to commodities trading. For example, joint rulemaking by the CFTC and the SEC (required under the Reform Act) has broadened the definition of “commodities” positions to include certain types of swaps, including some foreign exchange trades that were previously not regulated as commodities. The precise contours of the SEC and CFTC rules remain somewhat uncertain and may change in unpredictable ways over time. As of the date of this Memorandum, the General partner is exempt from registration with the CFTC as a commodity pool operator (“CPO”) pursuant to CFTC Rule 4.13(a)(3) which imposes certain quantitative limits on the size of commodities positions (including positions in swaps regulated as commodities) that the Client may take. Continued reliance on CFTC Rule 4.13(a)(3) will cause the Client to forego certain investment opportunities that might otherwise be suitable investments for the Client. In order to avoid the trading limitations imposed by CFTC Rule 4.13(a)(3), the Arena

may seek to rely on other exemptions from registration that do not impose such limitations, or it may elect to register as a CPO with the CFTC. However, even if the Arena does register as a CPO, it expects that it may nevertheless be able to avoid certain disclosure, recordkeeping and reporting requirements that would otherwise apply to it (in reliance on CFTC Rule 4.7).

### ***Structural Risks***

**Absence of Certain Regulatory Protection.** The Client will not be registered under the Investment Company Act. The Investment Company Act provides certain protection to investors in registered investment companies and imposes certain restrictions on registered investment companies (including, for example, limitations on the ability to incur leverage), none of which will apply to the Client. Consequently, Investors will not be afforded these protections. Furthermore, neither the General partner nor the Arena is registered as a broker-dealer or is a member of FINRA and, consequently, are not subject to the Exchange Act, the regulations thereunder or the rules of FINRA.

The Arena is registered under the Advisers Act with the SEC and the General partner is deemed to be registered under the Advisers Act as a “special purpose” entity in reliance on SEC staff guidance set forth in American Bar Association, Business Law Section, SEC No-Action Letter (January 18, 2012). Registered advisers are subject to substantial regulatory reporting and recordkeeping requirements regarding their advisory business. Compliance with these reporting and recordkeeping requirements will require the expenditure of Arena’s resources and the attention of certain personnel of Arena and its affiliates who also have responsibilities on behalf of the Client and to Arena generally.

**Risks Related to Multiple Clients.** Arena has an existing open-ended Client that pursues a strategy similar to the Client’s strategy. Arena anticipates launching additional Clients and managing accounts that may pursue similar strategies or have substantially overlapping objectives. Such activity may adversely affect the Client and the Investors. These risks include, but are not limited to, loss of management attention and time due to multiple constraints, increased competition of capital allocations, and expansion of potential risks to Arena as a whole outside those previously disclosed. As Arena organizes and manages new Clients, Arena will face conflicts with respect to the allocation of investment opportunities among such Clients, including the Client.

**Limited Liability and Indemnification of Arena Parties.** Arena parties have limited liability to the Client and their investors. The Client (and indirectly, the investors) has agreed to indemnify and hold each Arena party harmless against any losses except to the extent such losses result from an Arena party’s violation of the agreed upon standard of care, in accordance with the applicable Offering Documents. Therefore, the Client will not be able to recover from Arena parties for losses that arise from such Arena parties’ actions or inactions absent a violation of the standard of care. Furthermore, the Client may be required to bear, or reimburse Arena parties for, potentially unlimited amounts, which

could result in a material adverse effect on the Client.

**Default Risks.** Investors make Capital Commitments that the Client is entitled to call from throughout the Investment Period and, to a lesser extent, thereafter. The Client depends on Investors fulfilling and honoring these commitments in order to consummate investments and otherwise pay the Client's obligations when due. As a result, the Client may be subject to costs, including break-up fees or damages, for unconsummated transactions if Investors default on their commitment to Client capital. The other Investors in the Client may be required to make additional contributions to replace such shortfall, thereby reducing the diversification of their investments. Any default or excused investment by one or more Investors could have a deleterious effect on the Client, its assets and the interests of the other investors in the Client. In addition, the consequences of defaulting on a drawdown notice are material and adverse to the defaulting Limited Partner, including the forfeiture of a defaulting Limited Partner's capital account and the imposition of penalty interest.

**No Withdrawal Rights; Long-Term Commitment.** Investors may not make withdrawals from their capital accounts. Investors, furthermore, may not receive any distributions until the conclusion of the Investment Period, at which point the timing of any distributions by the Client may remain uncertain. The amount and timing of distributions to Investors will depend on the available cash received by the Client, which, in turn, will depend on the disposition of the assets held by the Client as well as the General partner's determination of the amounts that the Client needs to hold in reserve to meet expenses and financial commitments.

There can be no assurance that all of the Client's assets will be realized following the Investment Period, or that the General partner will not determine to retain any substantial portion of the disposition proceeds received by the Client as a reserve against future obligations. A Limited Partner will be committed to the Client for six or more years, irrespective of materially adverse changes to the General partner, the Arena, the Client, general economic conditions and/or such Limited Partner's own financial situation.

**Transfers Restricted.** Interests may not be transferred, i.e., assigned, sold, pledged, gifted, hypothecated or otherwise encumbered, without the prior written consent of, and on the terms approved by, the General partner. A Limited Partner that is permitted to transfer its Interest will generally remain obligated to meet drawdown notices on the transferred Capital Commitment to the extent that the transferee does not do so. There is no public market for the Interests and none is expected to develop.

**Unpredictable Drawdowns and Distributions.** One of the principal shortcomings of the structure of the Client relates to the uncertainty of the timing of Drawdowns and distributions. This uncertainty makes it difficult to schedule cash flows efficiently and can lead to Investors incurring reduced overall portfolio returns due to "uninvested capital" associated with both reserving cash to meet their Capital Commitments to, and

distributions received unexpectedly from, the Client.

**Requirements to Return Distributions.** Subject to the terms and conditions of the Partnership Agreement, the General partner may require each Partner to return distributions previously made to such Partner for the purpose of funding such Partner's pro rata share of certain obligations of the Client (including the Client's indemnification obligations).

**Distributions in Kind.** Distributions may be in cash or in securities, but the Client will use commercially reasonable efforts not to distribute securities other than marketable securities unless such distribution is in connection with the liquidation of the Client. Assets that are distributed in kind may be illiquid. Even for those assets for which a liquid market exists or develops, there is no guarantee that such market will be sustained. There can be no assurance that any Limited Partner would be able to realize an amount equal to the value attributed by the Arena to the distribution.

**Dilutions from Subsequent Closings.** Investors making Capital Commitments after the Initial Closing will participate in the existing investments of the Client, thereby diluting the interest of existing Investors. Although such Subsequent Closing Partners will contribute their pro rata share of prior Capital Contributions (plus the Subsequent Closing Amounts), there can be no assurance that this contribution will reflect the fair value of the Client's existing investments at the time that such additional Investors make their Capital Commitments, despite the Client's marking-to-market of such existing investments if the Arena believes that there has been a material change in their fair value from the Initial Closing.

**Investments Longer than Term.** Although the General partner and the Arena expect that the Client's investments will be realized prior to the end of the term (which, in any event, may be extended by the Arena in its discretion for up to one year), the Client may have to sell, distribute or otherwise dispose of its investments at a disadvantageous time in order to achieve such realization. As a result, the Client may sell, distribute or otherwise dispose of its investments for a price which is less than the price that could have been obtained if the investments were held for a longer period of time. There can be no assurance that the winding up of the Client and the final distribution of their assets will be able to be executed expeditiously.

**The L.P. Advisory Committee.** Although the L.P. Advisory Committee is intended to act as the representative of the Investors, the L.P. Advisory Committee may not have the same interests as all investors. Furthermore, the L.P. Advisory Committee cannot be expected to be expert in investing, and certain of its determinations may, in fact, adversely affect the performance of the Client.

**Excuse and Exclusion from Investments.** Under certain limited circumstances (including, potentially, in connection with investments in “new issues”), a Limited Partner may be excused from participating in an Investment (including, without limitation, to avoid violations of law and violation of a Limited Partner’s written policies disclosed to the General partner prior to making a Capital Commitment to the Client) or the General partner may exclude or limit the participation of a Limited Partner in an investment (including, without limitation, if a Limited Partner’s participation is reasonably likely to have a material adverse effect on the Client, any of its affiliates or any issuer of an investment or result in a violation of law). In any such circumstance, each other Limited Partner may be requested to make an additional Capital Contribution to the Client in respect of such investment, subject to certain limitations, thereby resulting in such other Limited Partner having an increased investment exposure in such investment than such Limited Partner would otherwise have had but for such excuse or exclusion event.

**Carried Interest.** The General partner or its affiliate, under certain circumstances, will receive performance-based compensation. Risks related to performance-based compensation include the fact that such compensation is payable only out of net profits may create an incentive for the Arena to make investments that are riskier or more speculative than would be the case if the Arena or its affiliate were compensated solely based on a flat percentage of capital. Other Clients (or investors in certain Clients) of the Arena may be subject to reduced or no Carried Interest.

**Cybersecurity Breaches and Information Technology.** Arena is heavily reliant on its information technology infrastructure, processes and procedures, and it has devoted significant resources to ensuring it has competitive informational technology systems. Information technology changes rapidly, however, and Arena may not be able to stay ahead of such advances. Moreover, as arena grows, it may find itself a target of cybersecurity breaches and attacks. The Client is subject to risks associated with a breach in its cybersecurity. Cybersecurity is a generic term used to describe the technology, processes and practices designed to protect networks, systems, computers, programs and data from “hacking” by other computer users, other unauthorized access and the resulting damage and disruption of hardware and software systems, loss or corruption of data as well as misappropriation of confidential information. The computer systems, networks and devices used by Arena and service providers to Arena and the Client to carry out routine business operations employ a variety of protections designed to prevent damage or interruption from computer viruses, network failures, computer and telecommunication failures, infiltration by unauthorized persons and security breaches. Despite the various protections utilized, these systems, networks, or devices potentially can be breached. Cybersecurity breaches can include unauthorized access to systems, networks, or devices; infection from computer viruses or other malicious software code; and attacks that shut down, disable, slow, or otherwise disrupt operations, business processes, or website access or functionality. The Client and its investors could be negatively impacted as a result of a cybersecurity breach. If a cybersecurity breach occurs, the Client may incur substantial costs, including

those associated with: forensic analysis of the origin and scope of the breach; increased and upgraded cybersecurity; investment losses from sabotaged trading systems; loss of data and other records; identity theft; unauthorized use of proprietary information; litigation; adverse investor reaction; the dissemination of confidential and proprietary information; and reputational damage. Cybersecurity breaches may cause disruptions and impact business operations, potentially resulting in financial losses to the Client; interference with Arena's ability to calculate the value of an investment in the Client; impediments to trading; the inability of Arena and other service providers to transact business; violations of applicable privacy and other laws; regulatory fines, penalties, reputational damage, reimbursement or other compensation costs, or additional compliance costs; as well as the inadvertent release of confidential information.

**Conflicts of Interest.** Arena parties have certain conflicts of interest in their management of the Client. These conflicts arise primarily from the involvement of Arena parties and their affiliates in other activities that may conflict with those of the Client and will also arise whenever an Arena party or any of its affiliates is engaged to perform for compensation any services for the Client. In addition, the Arena will face conflicts in the allocation of investment opportunities among the Client and its other Clients and affiliates.

Employees and officers of the General partner, the Arena, the custodians and the prime brokers of the Client may from time to time act as directors, investment advisors, administrators, custodians or prime brokers in relation to or otherwise be involved with other companies established by parties other than the Client which have similar objectives. In such event, should a conflict of interest arise, the General partner will resolve in a manner that it determines fair and equitable under the circumstances.

**Structuring of Joint Venture and Similar Arrangements.** The Client expects to invest in one or more transactions along with Affiliates and unaffiliated joint venture partners, correspondents and sourcing relationships. Such transactions may be structured to include incentive fee payments structured through waterfall provisions that provide back-ended profit payments to the joint venture partner, correspondent or sourcing relationship in order to incentivize such person's performance. The Client will be required to value its investments in the joint ventures at differing times during the waterfalls in the joint venture agreements. This valuation approach creates a conflict of interest between the Client and the Affiliates that invest in the same joint venture waterfall transactions at differing times, as well as an internal conflict within the investor groups in the Client who invest in the Client at differing times during the lifecycle of the joint venture transactions. Because the profit share distributed to a joint venture partner may be back-ended (i.e., paid after a return of capital in respect of the investment), this may mean certain Arena Clients or certain groups of Investors bear a disproportionate burden with respect to such profit payments. In performing the related valuations, the Client will seek to ensure that the value of the Client's joint venture investments will not exceed the value that would be determined had the joint venture investments been made in a standalone transaction, outside of the context

of the joint venture, rather than structured through an all capital back first waterfall, and the Arena will seek to make any excess value that might be created by offsetting transaction losses occurring in other investments made through the joint venture arrangement available to the Client and Affiliates that invested in those offsetting loss transactions.

**Private Offering Exemption.** The Client intends to offer Interests on a continuing basis for at least a 12-month period without registration under any securities laws in reliance on an exemption for “transactions by an issuer not involving any public offering.” While the Client believes reliance on such exemption is justified, there can be no assurance that factors such as the manner on which offers and sales are made, the scope of disclosure provided, failure to make notices, filings or changes in applicable laws, regulations or interpretations will not cause the Client to fail to qualify for such exemptions under U.S. federal or one or more states’ securities laws. Failure to so qualify could result in the rescission of sales of Interests at prices higher than the current value of those Interests, potentially materially and adversely affecting the Client’s performance and business. Further, even non-meritorious claims that offers and sales of Interests were not made in compliance with applicable securities laws could materially and adversely affect the Client’s and Arena’s ability to conduct the Client’s business. Rule 506(d) of Regulation D (“Regulation D”) promulgated under the Securities Act provides that an issuer may not rely on Regulation D if certain covered persons (including the issuer, any affiliated issuer, certain officers of the issuer, any beneficial owner of 20% of the issuer’s outstanding voting equity securities (calculated on the basis of voting power), the investment manager, any compensated solicitor and certain other persons) engage in any disqualifying event described in Rule 506(d)(1). As a result of this new rule, if any such disqualifying event occurs, the Client may be unable to offer the Interests in reliance on Regulation D.

**Trade Error Policy.** The Arena attempts to minimize trade errors by taking the utmost care in making and implementing investment decisions on behalf of Client accounts. However, on occasion, trades may be executed on behalf of Clients, including the Client, 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 known as “Trade Errors” include, without limitation, instances in which as a result of an 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 but may, occasionally, result in 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 occurred and, if so, whether it resulted from willful misconduct or gross negligence on the part of Arena or its employees. Investors should be aware that, in making such determinations, Arena will have a conflict of interest.

**Broker-Dealer Regulatory Risks.** Certain activities in which Arena and its affiliates may participate, including loan origination activity, may subject them to the risk of being deemed to be engaged in the business of effecting securities transactions for others. This could mean that Arena or one or more of its affiliates is acting as an unregistered broker-dealer, a subject of heightened SEC focus in recent years. If Arena or one of its affiliates were deemed to be acting as an unregistered broker-dealer, it may be subject to regulatory censure and may be required to register with FINRA, which could have adverse effects on the Client, including additional regulatory scrutiny and increased regulatory and operational costs.

**Other Business Activities of the Arena; Reliance on Daniel Zwirn.** In addition to serving as the CEO of the Arena, Mr. Zwirn serves as CEO of AOC and provides certain services to the Arena Finance Affiliates (defined below). Mr. Zwirn also engages in non-Arena related business activities, including serving as a Director of Applied Data Finance, Inc. and on its Board. As a result, Mr. Zwirn will face conflicting demands for his business time and attention. If he were not available to the Arena for any reason, the Client's performance could be adversely affected. The other employees of Arena will devote varying portions of their business time and attention to the affairs of the Client and other Arena Clients and the Arena Finance Affiliates. Neither the Arena nor any of its affiliates, principals or employees is required to devote full time to managing the Client. They may conduct other businesses and provide investment advisory services to other Clients, including, without limitation, other affiliated investment Clients and managed accounts (such as corporate or governmental benefit plans, institutional investors and high net worth individuals), some of whom may have objectives similar to those of the Client. They may give advice and make recommendations to such other accounts, which may be the same, similar to or different from those rendered to the Client. The compensation arrangements with other Clients may create incentives for the Arena or its principals or employees to favor such other Clients. Investors will have no direct interest in the General partner, the Arena, Arena's or Mr. Zwirn's other business activities. Mr. Zwirn's other business activities may compete or conflict with the Arena's or the Client's investment activities but will be subject to the Arena's conflicts policies. In addition, from time to time entities affiliated with Mr. Zwirn or Westaim may engage in transactions with the Arena Clients. In such cases Mr. Zwirn will not participate in the decisions on behalf of the Arena and such transactions will occur only after appropriate consents have been received from an Independent Representative, the L.P. Advisory Committee or through other similar means. Finally, Mr. Zwirn, Westaim and their affiliates may engage in independent investment activities on their own behalf. Neither the Arena nor Mr. Zwirn nor Westaim, in respect of any of their other business activities, will knowingly or deliberately favor any other account or business over the Client. Decisions

affecting the Client may be made independently from such other accounts or businesses. Decisions as to the execution of portfolio transactions on behalf of the Client, including the selection of the dealers and brokers, will be made in the sole and absolute discretion of the Arena. The Arena will seek the most favorable terms for each portfolio transaction.

**Risk of Litigation.** In the ordinary course of its business, the Client may be subject to litigation from time to time. The outcome of litigation, which may materially adversely affect the value of the Client, may be impossible to anticipate, and such proceedings may continue without resolution for long periods of time. Any litigation may consume substantial amounts of the Arena's time and attention, and that time and the devotion of these resources to litigation may, at times, be disproportionate to the amounts at stake in the litigation. The Client also may enter into direction letters or similar agreements with third parties in connection with claims or litigation that may include indemnification and exculpation provisions in favor of such third parties.

**Side Letters; Additional Reports and Information.** To the extent permitted by the Partnership Agreement, the Arena and/or the General partner on behalf of the Client, as applicable, may, in their sole and absolute discretion, agree to waive or modify the application of any provision of the offering terms described herein with respect to any Limited Partner, by side letter or otherwise, without obtaining the consent of any other Limited Partner. Such side letters may provide for the following modified terms: (i) various notification requirements; (ii) limitations on the Client's ability to distribute securities in kind; (iii) the provision of audited financial statements within certain periods of time; (iv) the provision of information relating to the Client's portfolio holdings (subject to non-disclosure agreements and other confidentiality considerations); (v) reduced Management Fees, Carried Interest or fee rebates; (vi) minor investment restrictions that do not materially affect the Client; (vii) the provision of periodic pricing information; or (viii) provisions necessary to accommodate a particular investor's legal, tax, sovereign or regulatory status, accounting considerations, contractual obligations, or internal guidelines or policies.

In certain cases, the Arena may disclose portfolio holdings of the Client to entities that evaluate portfolio risk for Investors. The Arena will provide this information to such entities as it chooses and may refuse to provide this information to any such entity at any time. Every effort is made to bind the recipients of this information to maintain the confidential nature of this information, including entering into non-disclosure agreements prior to providing this information to them. However, there can be no assurance that these entities will fulfill their confidentiality obligations to the Arena. In addition, Investors, in the course of conducting due diligence, may request information pertaining to their investments in the Client (either verbally or in writing), including information that is not generally made available to all Investors of the Client. The Client and the Arena may respond to such requests without providing relevant information to all other Investors. The Client and the Arena generally are available to receive reasonable information requests from Investors concerning their investments in the Client.

### ***Tax Risks***

A variety of tax issues may affect the overall investment results experienced by a Limited Partner. The taxation of partnerships and partners is complex. Potential investors are strongly urged to consult their own tax advisors.

**Phantom Income.** The Client's income and gain for each taxable year will be allocated to, and includible in, a Limited Partner's taxable income whether or not cash or other property is actually distributed. Furthermore, the General partner does not anticipate that the Client will make current distributions. Accordingly, each Limited Partner should have alternative sources from which to pay its U.S. federal income tax liability.

**Tax Accounting.** The tax accounting rules with respect to the timing and character of income and losses on investments in distressed debt instruments may result in adverse tax consequences. For instance, Investors may be required to include in income accrued interest, "original issue discount," and, potentially, "market discount" (each of which will be ordinary income), with respect to debt instruments held by the Client even though there is uncertainty as to whether such amounts and/ or the ultimate principal amount will ever be received by the Client. If an item of income is accrued and subsequently becomes uncollectible, the effect is a deduction, rather than the elimination of the accrual, even if the item becomes uncollectible in the same tax year that it is accrued. Accordingly, Investors may be subject to character mismatches where the Client is required to accrue an amount of interest, original issue discount or market discount with respect to a capital asset which is subsequently sold at a loss. In addition, if a debt instrument held by the Client is modified, Investors may be required to recognize gain as a result of the modification.

**Tax Positions.** The Client may take positions with respect to certain tax issues that depend on legal conclusions not yet addressed by the courts. Should any such positions be successfully challenged by the Internal Revenue Service (the "IRS"), a Limited Partner might be found to have a different tax liability for that year than that reported on its U.S. federal income tax return.

**Tax Audits.** An audit of the Client's U.S. federal income tax information return may result in adjustments to the tax consequences initially reported by the Client and may affect items not related to a Limited Partner's investment in the Client. If audit-related adjustments result in an increase in a Limited Partner's U.S. federal income tax liability for any year, that Limited Partner may also be liable for interest and penalties with respect to the amount of underpayment.

Absent an election by the Client under rules to be finalized by the IRS, the Client will be required to determine and pay any underpayment of tax (including interest and penalties) resulting from an adjustment of the Client's items of income, gain, loss, deduction or credit at the Client level without the benefit of any Limited Partner-level tax items that could

otherwise reduce tax due on any such adjustment and, where the adjustment reallocates any such Client item from one Limited Partner to another, without the benefit of any decrease in any item of income or gain (or increase in any item of deduction, loss or credit). The cost of any such imputed underpayment of tax (and any interest and penalties) may, in whole or in part, be borne by those who are Investors in the year of adjustment, without any Client-level or Limited Partner-level tax deduction or credit for the Client's payments, rather than by those who were Investors in the taxable year to which the adjustment relates. The legal and accounting costs incurred in connection with any audit of the Client's tax return will be borne by the Client.

**Delayed K-1s.** The Client may not be able to provide final Schedules K-1 to Investors for any given calendar year until after April 15 of the following year, although it will attempt to provide them as soon as practicable. Investors should be prepared to obtain extensions of the filing date for their income tax returns at the U.S. federal, state and local levels.

**Tax Disclosures.** The Client will be required to disclose identifying information to the IRS regarding each of its Investors, including each Limited Partner's name, address and taxpayer identification number.

**Required Tax Information.** Each Limited Partner will be required to provide certain tax information in its subscription documentation, including entity type for entities and tax status for individuals.

**U.S. State and Local Taxes.** Investors may be subject to state and/or local income, franchise, withholding, capital gain or other tax payment obligations and filing requirements in those jurisdictions where the Client directly or indirectly engages in lending activities, forecloses on collateral, holds or sells foreclosed-upon collateral, or is otherwise regarded as doing business or purposefully directing its economic activity in a regular, continuous, and substantial manner. A prospective investor should be aware that state and/or local taxes could potentially have a material adverse effect on the amount available for distribution by the Client due to actual state and/or local tax payment obligations and/or the establishment of reserves for state and/or local taxes that may potentially be owing.

**Foreign Taxes.** Dividend and interest payments on foreign securities may be subject to foreign withholding taxes, which could reduce net proceeds to the Client.

**Accounting for Uncertainty in Income Taxes.** Accounting Standards Codification Topic No. 740, "Income Taxes" (in part formerly known as "FIN 48") ("ASC 740"), provides guidance on the recognition of uncertain tax positions. ASC 740 prescribes the minimum recognition threshold that a tax position is required to meet before being recognized in an entity's financial statements. It also provides guidance on recognition, measurement, classification and interest and penalties with respect to tax positions. A prospective investor should be aware that, among other things, ASC 740 could have a material adverse effect on

the periodic calculations of the net asset value of the Client, including reducing the net asset value of the Client to reflect reserves for income taxes, such as foreign withholding taxes, that may be payable by the Client. This could cause benefits or detriments to certain investors, depending upon the timing of their entry and exit from the Client.

## **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 of a pooled investment vehicle (each, a “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 officers and/or employees of Arena and its other affiliates. Certain Arena employees are also registered representatives of AFS. AFS may act 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; 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;
- Houston International Insurance Group, Ltd., a U.S.-based diversified specialty insurance provider and managing general insurance agent is an investee of Westaim;
- Arena Origination Co., LLC (“AOC”) primarily originates loans, and, after seasoning, will make such loans available to Clients advised by Arena, Arena affiliates and/or other third-party counterparties (please see Item 5 and Item 11 for information relating to conflicts of interest);
- Arena’s general purpose finance affiliates include Arena Finance Holdings Co, LLC (and subsidiaries), (collectively the “Arena Finance Affiliates”); BernardCo is expected to participate in the profits of the Arena Finance Affiliates, and Mr. Zwirn will perform certain services on behalf of these entities (please see Item 11 for information relating to the conflicts of interest)
- Arena Investors UK Limited (“Arena UK”) an entity established in the United Kingdom and authorised and regulated by the UK Financial Conduct Authority. Arena UK also provides advisory services to certain other institutional funds and accounts;
- 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;
- 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;
- Quaestor Advisors, LLC, which provides administrative and certain non-advisory front office services to Arena Clients;
- Quaestor Strategic Adviser, LLC, which provides consulting sourcing or other services to Clients.

### Mr. Zwirn

Mr. Zwirn serves as a director, officer, principal of and/or advisor to other investment advisers or other businesses in the financial services industry and also serves 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 – Board of Trustees
- Barnard College – Board of Trustees
- University of Pennsylvania's School of Social Policy & Practice – Board of Directors
- University of Pennsylvania's Jerome Fisher Program in Management & Technology –Executive Board
- Applied Data Finance (a venture-backed provider of online consumer credit) - Director
- 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 deemed 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, such as financing. Any related fees will be comparable to fees that a qualified independent third-party service provider would have charged. In addition to the foregoing, Arena advised Clients will, from time-to-time and subject to applicable investment restrictions, invest in or transact with outside businesses controlled by Mr. Zwirn or in which Mr. Zwirn has an interest.

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 practicable, the reporting requirements and approval process through an electronic compliance system. Arena’s Code’s personal trading requirements apply to all individuals in which Arena designates, which generally includes employees, as well as their spouses, certain members of their immediate families and other persons as further described in the Code (“Access Persons”). 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 generally prohibited to trade in the same securities in which a Client might invest though there are certain exceptions, for example, if the Access Person was already invested in a specific investment prior to a Client being invested and the Access Person would like to divest their position, provided there was no applicable trading restrictions. Client. 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, but not limited to: (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").

*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, an affiliate, or an Arena Fund will, as necessary, originate loans and then later sell the loan to an Arena Client (or in the case of an origination by an Arena Fund, another Arena Client account) or to a third party. Such third parties may not be required to pay Arena and/or its affiliates asset management and/or servicing fees associated with such loans.

Sales of loans originated by AOC, an affiliate, or an Arena Fund to another 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 U.S based Arena fund may originate loans and then sell them to another Arena fund offshore, or other Arena affiliates, including AOC, may originate loans with or without the U.S. fund's participation and sell them to a U.S. fund, an offshore fund or to third parties. Such transactions will be made generally 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, will overlap with personnel at AOC. Further, originating loans generates origination and other transaction-related fees for AOC. Certain members of the management team have equity interests in AOC, 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 has conflicting loyalties and responsibilities with respect to transactions among or between Clients, including affiliated Clients or entities. Origination and transaction-related fees are also generated when a Client originates a loan that it sells to another Arena Client. Such fees similarly will 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 a committee to ensure fulfillment of its fiduciary duties with respect to affiliated 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. The above list is not exhaustive and Arena may consider additional factors including unforeseen factors.

If an investment opportunity is available in limited quantities, subject to investment restrictions and fiduciary duties, Arena will have an incentive to allocate such investment opportunity to Arena affiliates or to one Client rather than other Clients. For example, such an incentive will 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 or if a Client has requested that certain allocation restrictions be complied with, in the case of certain separately managed accounts.

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, or 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 managed by Arena holds notes, and a U.S. fund managed by Arena 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 will 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 invests 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, due to differing mandates or otherwise, 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 will 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.

Certain Clients of Arena may, from time to time, engage in transactions that are initiated in such a way that objectives related to tax will 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 up to a 50 bps (0.50%) per annum fee, depending on the level of sophistication of the relevant mandate, 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, is not offset against the Management Fee, 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 (See "Certain Asset Servicing Expense", Item 5 above).

Arena advises a number of Clients pursuing credit and credit-related strategies. From time to time, Arena's advisory Clients with discrete mandates may make contemporaneous as well as other investments in an issuer which has different securities in its capital structure. These securities will have different risk and return profiles and will also involve at least one security that is subordinate to the other. In this situation, certain potential conflicts may arise that would put the various security classes' (and associated advisory Clients') interests against each other, particularly during certain adverse credit events, including potential restructurings of the issuer.

### **Co-investment with Affiliates**

On occasion clients may acquire debt or equity interests in projects financed by other entities managed by affiliates of the Investment Adviser. In addition, the Funds may loan to or invest in entities in which other clients of the Investment Adviser are investors or lenders, either in similar investment positions or in different positions in the capital structure with different risk and return parameters.

The Fund or SMA clients may enter into transactions originated by, or issuers otherwise affiliated with, service providers to the Fund and their affiliates. In such event, disputes may arise between entities regarding the terms of the investments and the enforcement of the entities' respective rights therein. Furthermore, the Investment Adviser is not precluded from causing the Fund or SMA clients to invest in the securities issued by companies represented in the investment portfolios of other partnerships managed by the Investment Adviser or its principals, affiliates or advisory clients. Any such purchases (or sales) will not be on a "principal-to-principal" basis and will only be offered where the Investment Adviser is satisfied that the Fund's or SMA clients' interests are not unfairly prejudiced.

### **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 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 creates 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**

On occasion, Arena or the funds it advises will 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 has discretionary investment management authority to manage securities accounts on behalf of certain 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 authority to manage its Clients' accounts typically 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 will 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 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, will 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.