

## **Harber Capital LLC**

780 Third Avenue, Suite 1500  
New York, NY 10017  
Phone: (212) 808-7430  
[www.grahampartners.com](http://www.grahampartners.com)

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

This brochure provides information about the qualifications and business practices of Harber Capital LLC (“Harber”, “we” or “us”). If you have any questions about the contents of this brochure, please contact us at (212) 808-7432 or [josh@grahampartners.com](mailto:josh@grahampartners.com). The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (“SEC”) or by any state securities authority.

Additional information about Harber Capital LLC is also available on the SEC’s website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). The searchable IARD/CRD number for Harber Capital LLC is 158939.

Harber Capital LLC is an investment adviser registered with the SEC. Registration with the SEC does not imply a certain level of skill or training.

**Item 2: Material Changes**

Harber's last annual update to Part 2 of Form ADV was March of 2020. There have been no material changes in Harber's business activities since the time of the March 2020 update.

This update reflects changes to our assets under management and other administrative or non-material changes.

Pursuant to SEC Rules, we will ensure that you receive a summary of any material changes to this and subsequent brochures within 120 days of the close of Harber's fiscal year. We may further provide other ongoing disclosure of material changes as necessary.

We will provide you a new brochure as necessary, based on changes or new information, at any time without charge. Currently, Harber's brochure may be requested by contacting Josh Davis, Harber's Chief Compliance Officer (the "CCO"), at (212) 808-7432 or [josh@grahampartners.com](mailto:josh@grahampartners.com).

**Item 3: Table of Contents**

	<b>Page</b>
Item 1: Cover Page .....	1
Item 2: Material Changes .....	2
Item 3: Table of Contents .....	3
Item 4: Advisory Business.....	4
Item 5: Fees and Compensation.....	5
Item 6: Performance-Based Compensation and Side-By-Side Management.....	5
Item 7: Types of Clients .....	6
Item 8: Methods of Analysis, Investment Strategies and Risk of Loss .....	6
Item 9: Disciplinary Information.....	10
Item 10: Other Financial Industry Activities and Affiliations.....	10
Item 11: Code of Ethics, Participation or Interest in Client Transactions and Personal Trading .....	11
Item 12: Brokerage Practices.....	12
Item 13: Review of Accounts .....	14
Item 14: Client Referrals and Other Compensation .....	14
Item 15: Custody .....	14
Item 16: Investment Discretion .....	15
Item 17: Voting Client Securities .....	15
Item 18: Financial Information.....	16

#### **Item 4: Advisory Business**

Harber Capital LLC is a Delaware limited liability company that was founded in November 2006. Since shortly after its formation, Harber served as investment manager to two private investment funds, Graham Partners, L.P. (“Graham I”), a Delaware limited partnership, and Graham Partners Offshore Fund, Ltd. (“Graham Offshore”), a Cayman Islands exempted company. Since February 2011, Harber has also served as investment manager to Graham Growth Partners, L.P. (“Graham II”), a Delaware limited partnership. Since July of 2014, Harber has served as investment manager to Graham Institutional Partners, LP (“Graham III,” and together with Graham I and Graham II, the “Funds”), a Delaware limited partnership. Until 2012, Harber was not required under Section 203 of the Investment Advisers Act of 1940, as amended (the “Advisers Act”), to register as an investment adviser with the SEC. With the passage of the Dodd-Frank Wall Street Reform and Consumer Protection Act, and new rules promulgated by the SEC thereunder, Harber became registered with the SEC effective March 31, 2012. At December 31, 2013, all external investors in Graham Offshore were fully redeemed and in April, 2014 Graham Offshore completed the process of winding down its operations. Graham I, Graham II, and Graham III continue to operate normally.

Harber is a privately held investment adviser with headquarters in New York, New York. Mr. Harold Berry is the managing member and the principal owner of Harber, as well as its affiliate, Harber Asset Management LLC, a Delaware limited liability company that acts as the general partner of Graham I, Graham II, and Graham III.

Harber provides discretionary investment management services to the Funds, using primarily a long-short equity strategy, with an investment objective based on rigorous qualitative and quantitative criteria, focusing primarily on securities that are either overlooked or misunderstood by mainstream Wall Street. Harber manages the Graham I and Graham II side-by-side with a substantially identical strategy and positions, except that Harber is permitted to, and does utilize leverage in Graham II to create gross exposure of approximately 150% of the gross exposure of Graham I. Graham III uses a similar investment strategy, while typically targeting gross exposure of approximately 180% and net exposure of approximately 25%. For more information regarding Harber’s investment strategies, please see Item 8 below. The limited partnership interests in Graham I, Graham II, and Graham III are not and will not be registered under the Securities Act of 1933, as amended (the “1933 Act”), or the securities laws of any state or any other jurisdiction, nor is any such registration contemplated. In addition, the Funds are not and will not be registered as investment companies under the Investment Company Act of 1940, as amended (the “1940 Act”), in reliance on various exceptions under Section 3(c) thereof.

Other than the Funds, Harber does not presently manage assets for any individual or separate account clients and does not tailor its advisory services to individual needs of other clients.

As of December 31<sup>st</sup>, 2020, Harber’s total assets under management were \$536,980,303; and Harber’s Regulatory Assets Under Management as defined in the instructions to Form ADV Part I were \$826,043,739, in each case managed on a discretionary basis.

For more information about the Funds, including applicable fees and other terms and conditions of investment, please consult the Private Placement Memorandum for the applicable Fund.

## **Item 5: Fees and Compensation**

### **Management Fee**

Harber generally charges the Funds a management fee, based on the net asset value of the aggregate capital account balances of the Funds, payable quarterly in advance. For Graham I, the management fee is 1.0% per annum for limited partners. For Graham II, the management fee is 1.5% per annum for limited partners. For Graham III, the management fee is 2.0% per annum for limited partners. Such fees are subject to reduction or waiver at Harber's discretion and are pro-rated in the event of contributions or withdrawals by investors on other than a calendar quarter-end.

### **Performance Allocation**

With respect to Graham I, Graham II, and Graham III, Harber Asset Management LLC ("Harber Management"), Harber's affiliate and the general partner of such Funds, charges an annual performance allocation equal to 20% of an investor's gain (subject to recoupment of prior loss, if any) in such Funds, subject to reduction or waiver at the sole discretion of the general partner.

The performance-based compensation described above conforms to Section 205(a)(1) of the Advisers Act in accordance with the available exemptions thereunder, including the exemption set forth in Rule 205-3. Performance allocations (and relevant loss recovery accounts), if applicable, are made at the end of the financial year to which the allocation pertains, or upon a withdrawal or redemption from or termination of a Fund.

Harber's management fee and Harber Management's performance allocation are separate from brokerage commissions, transaction fees, and other related costs and expenses which are incurred by the Funds.

Item 12 below further describes the factors Harber considers in selecting or recommending broker-dealers for client transactions and determining the reasonableness of their compensation (e.g., commissions).

Generally, the Funds' administrator calculates the management fees and, if applicable, any performance compensation payable to Harber or its affiliate, and permits payment in accordance with the terms of the Funds' governing documents.

## **Item 6: Performance-Based Compensation and Side-By-Side Management**

As described in Item 5 above, the Funds are subject to a performance allocation based on a share of the total return of the assets of a Fund investor. In measuring clients' assets for the calculation of performance allocations, Harber includes realized and unrealized capital gains and losses and net interest, dividend, and other income, after deduction of all expenses including its management fee.

Performance-based compensation arrangements may create an incentive for Harber to make investments which may be riskier or more speculative than those which would be made under a different fee or other compensation arrangements. The Funds each carry identical standard

performance allocations. Performance-based allocation arrangements comply with the requirements of Rule 205-3 promulgated under the Investment Advisers Act of 1940, as amended (the “Advisers Act”), or other applicable exemptions under Section 205(b) or (e) of such Act, and with applicable state laws, rules and regulations.

Harber does not manage any accounts other than those of the Funds.

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

Harber provides portfolio management services to the Funds, the investors in which are generally high net worth individuals, institutional investors, fund-of-funds, and family offices. Harber may advise different types of clients in the future. The minimum capital contribution for the Graham I and Graham II is \$1,000,000, and the minimum capital contribution for Graham III is \$5,000,000, with all minimums subject to waiver by the general partner.

An investor in Graham I or Graham II must generally be (i) an “accredited investor” as defined in Regulation D under the 1933 Act and (ii) a “qualified client” under the Advisers Act. An investor in Graham III must generally be (i) an “accredited investor” as defined in Regulation D under the 1933 Act and (ii) a “qualified purchaser” or a “knowledgeable employee” under the 1940 Act.

Graham I and Graham II currently rely on an exemption from registration under the 1940 Act that is available to investment partnerships that do not have more than 100 investors. In the future, one or both of those Funds may rely on another exemption which would permit such Funds to have more than 100 investors provided that the investors are “qualified purchasers” (essentially an individual or family entity with \$5 million in investments or any other entity with \$25 million in investments). In the event a Fund elects to rely on this exemption, any investors who do not meet these thresholds would be required to retire from such Fund. Graham III currently relies on an exemption under the 1940 Act that is available to investment partnerships that only accept qualified purchasers or “knowledgeable employees” within the meaning of the 1940 Act.

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

Harber’s investment objective in managing the Funds is to maximize total return primarily through the purchase and sale of equity securities. Harber attempts to achieve this objective through an investment selection process based on rigorous qualitative and quantitative criteria, focusing primarily on securities, often in the technology sector, that are either overlooked or misunderstood by mainstream Wall Street.

Generally, the Funds pursue the same investment objectives; provided that, Graham II’s investment program differs from Graham I with respect to position size and thus gross and net exposure, and Graham III’s investment program differs from both Graham I and Graham II with respect to both position size and the relative proportion of securities owned and securities sold short, as well as gross and net exposure. Generally, Harber intends to maintain a gross exposure in Graham II averaging 150% of the gross exposure of Graham I; provided that Graham II is not required to maintain a particular level of gross exposure at any given time. Generally, in Graham III Harber intends to typically maintain a gross exposure of approximately 180% and a net exposure of approximately 25%; provided that Graham III is not required to maintain a particular level of gross or net exposure at any given time.

Potential investments of the Funds often, but not exclusively, are uncovered according to a rigorous quantitative analysis (in its traditional sense and from a dynamic watch list) often followed with independent verification of field reports through industry contacts from a wide range of sources - from corporate officers, including board members, to operational managers, industry consultants, distributors, independent resellers, and end-users. Gross margin expansion and compression and changes in receivables and inventories as well as other factors are typically scrutinized. Harber intends to pay particular attention to fundamental analysis, believing that the health of a company is partly reflected by its free cash flow and quality of earnings, or its ability to finance its plans for future growth. Knowledge gained from and about company management is intended to enable Harber to evaluate a company's product or services and its ability to generate competitive returns on capital.

Once investments become part of a Fund's portfolio, they are continually scrutinized. A position is intended to be reevaluated on an ongoing basis, but particularly if there are changes in any of the following:

1. Company management;
2. Product's or company's competitive advantages;
3. Growth prospects;
4. Market valuation of the underlying security; and
5. Any other factor that changes the "investment thesis" of the security.

### **Flexibility**

While the Funds invest primarily in equity securities, Harber may employ all investment techniques and use all investment instruments that it believes will help achieve the Funds' investment objectives, whether or not such investment techniques are specifically described herein or in each Fund's Private Placement Memorandum. Consistent with their investment objectives, the Funds have broad and flexible investment authority. In order to maintain flexibility and to capitalize on investment opportunities as they arise, Harber is not required to invest any particular percentage of Fund assets in any type of investment or region, and the amount of a Fund's portfolio which is invested in any type of investment, which is long or short, or which is weighted in different countries or different sectors, can change at any time based on the availability of attractive market opportunities. Accordingly, the Funds' investments may at any time include, without limitation, long or short positions in publicly-traded or privately-placed U.S. or non-U.S. common stocks, preferred stocks, stock warrants and rights, bonds, notes or other debentures, debt participations or trade claims, convertible securities, partnership interests, currencies, commodities, forward contracts, futures contracts, options (including options written by the Funds), swaps, interests in other investment companies and other securities or financial instruments of any and all types which exist now or are hereafter created whether domestic or foreign. Harber may also cause the Funds to invest in cash or cash equivalents. The Funds may purchase securities on margin, borrow money against a pledge of assets or otherwise utilize leverage. The Funds will not invest in futures contracts or commodity interests unless Harber has registered with the Commodity Futures Trading Commission, obtained required exemptions from registration, or has been advised by counsel that such registration is unnecessary.

Investing in securities involves risk of loss that clients should be prepared to bear and there can be no assurance that the Funds will achieve their investment objective.

## **MATERIAL RISKS**

Although Harber purchases securities it considers undervalued, and sells short other securities it considers overvalued, no assurance can be given, of course, that its investment strategy will be successful under all or any market conditions. Investments in the Funds are not guaranteed; and the instruments in which the Funds invest may lose value. An investment in a Fund involves a risk of loss that an investor should be prepared to bear. Harber's strategy involves numerous risks, which are more extensively outlined in the Funds' Private Placement Memoranda, of which we would note the following selected risks associated with investing in the Funds:

### *Market Risks*

The profitability of a significant portion of the Funds' investment program depends to a great extent upon correctly assessing the future course of the price movements of securities and other investments. There can be no assurance that Harber will be able to predict accurately these price movements. With respect to the investment strategy utilized by the Funds, there is always some, and sometimes a significant, degree of market risk. Prices of investments made by the Funds may be volatile, and a variety of factors that are difficult to predict, such as domestic or international economic and political developments, as well as market fluctuations, may affect the results of the Funds' activities and the value of their investments.

### *Leverage Risk*

While the use of margin and borrowed funds can substantially improve the return on invested capital, such use may also increase the adverse impact to which the investment portfolios of the Funds may be subject. Borrowings will usually be from securities brokers and dealers and will typically be secured by a Fund's securities and other assets. Under certain circumstances, such a broker-dealer may demand an increase in the collateral that secures such Fund's obligations and if the Fund were unable to provide additional collateral, the broker-dealer could liquidate assets held in the account to satisfy the Fund's obligations to the broker-dealer.

### *Options*

Purchasing put and call options, as well as writing such options, are highly specialized activities and entail greater than ordinary investment risks especially when such options are not used as a hedge or are uncovered. Because option premiums paid or received by an investor are small in relation to the market value of the investments underlying the options, buying and selling put and call options can result in large amounts of leverage. As a result, the leverage offered by trading in options could cause the value of an investor's capital account to be subject to more frequent and wider fluctuations than would be the case if the Funds did not invest in options.

### *Short Sales*

Short selling, or the sale of securities not owned by the Funds, necessarily involves certain additional risks. Such transactions expose the Funds to the risk of loss in an amount greater than the initial investment, and such losses can increase rapidly and without effective limit. There is the risk that the securities borrowed by the Funds in connection with a short sale would need to be returned to the securities lender on short notice. If such request for return of securities occurs at a



time when other short sellers of the subject security are receiving similar requests, a “short squeeze” can occur, wherein the Fund might be compelled, at the most disadvantageous time, to replace borrowed securities previously sold short with purchases on the open market, possibly at prices significantly in excess of the proceeds received earlier.

#### *Non-U.S. Securities*

Investing in securities of non-U.S. governments and companies domiciled or operating outside of the United States, or which are generally denominated in non-U.S. currencies, involves certain considerations comprising both risks and opportunities not typically associated with investing in securities of the United States Government or United States issuers. These considerations include changes in exchange rates and exchange control regulations, political and social instability, expropriation, imposition of non-U.S. taxes, less liquid markets and less available information than are generally the case in the United States, higher transaction costs, less government supervision of exchanges, brokers and issuers, difficulty in enforcing contractual obligations, lack of uniform accounting and auditing standards and greater price volatility.

#### *Small to Medium Cap Securities*

At any given time, the Funds may have significant investments in smaller-to-medium sized companies of a less seasoned nature or whose securities are traded in the over-the-counter market. These securities often involve significantly greater risks than the securities of larger, better-known companies.

#### *High Yield Securities*

The Funds may make investments in “high yield” bonds and preferred securities which are rated in the lower rating categories by the various credit rating agencies (or in comparable non-rated securities). Securities in the lower rating categories are subject to greater risk of loss of principal and interest than higher-rated securities and are generally considered to be predominantly speculative with respect to the issuer’s capacity to pay interest and repay principal.

#### *Lack of Diversification*

The Funds’ portfolios are invested primarily in U.S. equity securities and are not generally diversified among a wide range of industries, geographic areas, types of securities, or a wide range of issuers. Accordingly, the investment portfolios of the Funds may be subject to more rapid change in value than would be the case if the Funds were required to maintain a wide diversification among investment areas, industries, types of securities and issuers.

#### *Terrorism and Catastrophe Risks*

Clients will be subject to the risk of loss arising from exposure that it may incur, indirectly, due to the occurrence of various events, including hurricanes, earthquakes, and other natural disasters, terrorism and other catastrophic events such as a pandemic. These catastrophic risks of loss can be substantial and could have a material adverse effect on Harbor’s business and Funds’ portfolios including investments made by the Funds.

## *Coronavirus Outbreak*

The COVID-19 Pandemic has significantly impacted worldwide economic conditions and could have a material adverse effect on the operations and business of many companies, including the companies in which the Funds invest. In response to the COVID-19 Pandemic, governmental authorities, including in many of the jurisdictions in which the Funds invest or plan to invest, have taken measures to limit the spread of the outbreak, including mandatory business closures, travel restrictions, quarantines, declarations of states of emergency, “stay-at-home” or “shelter-in-place” orders and social distancing protocols, in addition to seeking voluntary facility closures and other restrictions. These actions could materially adversely affect the companies’ ability, to adequately staff, manage and maintain their respective businesses. Furthermore, the Funds’ portfolio companies’ results of operations, cash-flows and liquidity could be adversely impacted by the COVID-19 Pandemic due to delays in payments of outstanding receivable amounts beyond normal payment terms, supply chain disruptions, uncertain demand and additional goodwill and intangible asset impairment charges.

The severity of the impact of the COVID-19 Pandemic on the Funds and their investments will depend on a number of factors, including, but not limited to, the duration, spread, severity and impact of the pandemic, the remedial actions and stimulus measures adopted by local and federal governments and their effects on the markets, and to the extent normal economic and operating conditions can resume, all of which are uncertain and cannot be predicted. The inherent uncertainty surrounding COVID-19, due in part to rapidly changing governmental directives, public health challenges and progress, and market reactions thereto, also makes it more challenging for Harber to estimate the potential impact and the future performance of the Funds. Accordingly, any negative financial impact to the Funds and their investments cannot be reasonably estimated at this time, but could be material and last for an extended period of time.

### **Item 9: Disciplinary Information**

This item requires Harber to disclose any legal or disciplinary events material to a client’s or prospective client’s evaluation of our business or the integrity of our management. Currently, there are no legal or disciplinary events material to a client’s or prospective client’s evaluation of our business or the integrity of our management to disclose in this Item.

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

Harber is an SEC-registered investment adviser. Neither Harber nor any of its officers, managers or employees is registered, or has a current application pending to register, as a broker-dealer, registered representative of a broker-dealer, futures commission merchant (“FCM”), commodity pool operator (“CPO”) or commodity trading advisor (“CTA”). In addition, neither Harber nor any of its officers, managers or employees is an associated person of an FCM or a CPO or CTA.

Harber Management, Harber’s affiliate, is the general partner of Graham I, Graham II, and Graham III. The principals of Harber are also the principals of Harber Management, including Mr. Harold Berry, who serves as the managing member for both entities. However, Harber does not have any arrangement in which it is compensated for recommending or selecting other investment advisers for the Funds, nor does Harber have any other business relationship with an investment adviser that would create a material conflict of interest with respect to Harber’s management of the Funds. Other than otherwise disclosed herein, to Harber’s knowledge, neither Harber nor its officers, managers or employees has a relationship or arrangement with any related person that would create a material conflict of interest with its clients.

As described above, Harber will or may (as appropriate) receive management fees in connection with the management and operation of the Funds. Harber may also recommend managed accounts or other vehicles (including Funds) to investors that contain a performance fee or a performance allocation that will permit Harber or an affiliate, including Harber Management, to participate in the profits of the Funds or other investment vehicles.

Any of Harber or Harber's affiliates may act as investment adviser or investment manager for others, may manage funds, separate accounts or capital for others and may serve as an officer, director, consultant, partner or stockholder of one or more investment funds, partnerships, securities firms or advisory firms. Such other entities or accounts may have investment objectives or may implement investment strategies similar to or different from those of the Funds (and in the event of different investment objectives, may receive allocations of investments, including new issue investments that are similar to or different from those received by the Funds) and the performance of such entities and accounts may diverge from that of the Funds. In addition, such entities and accounts may have negotiated different engagement (including management fee and performance fee and allocation and liquidity) terms with Harber or its affiliates and may have access to additional trading information and supporting analytics as relating to Harber's investment strategies, which could affect their performance.

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

Harber has adopted a Code of Ethics ("Code") that describes standards of conduct expected of Harber personnel. The Code sets forth standards of conduct, expected of Harber's personnel, reflecting the fiduciary obligations of Harber and its personnel to the Funds, and requires Harber's personnel to comply with applicable federal securities laws. Among other things, the Code requires Harber's personnel to report any violation(s) of the Code or any violation(s) of federal securities laws. Harber's personnel may trade securities of individual issuers in their personal accounts, including on rare occasions, the purchase or sale of a security that is held by the Funds. On such occasion, Harber's Managing Member must approve the request in advance, subject to the restriction, to minimize even the appearance of a conflict of interest, that an employee order may not be placed on the same day Harber has entered, or expects to enter, an order in the same security. Harber's principals and employees must instruct any brokerage firm(s) holding their personal accounts to provide duplicate monthly or quarterly customer account statements directly to Harber's Chief Compliance Officer. Each employee must certify that he or she has complied with the Code. Harber keeps records of reports and other information that access persons are required to provide under the Code.

The Code states that Harber personnel owe a duty of loyalty to Harber and its clients that requires Harber personnel to act in the best interests of its investors. In addition, Harber personnel must avoid actions or activities that allow (or appear to allow) them or their family members to profit or benefit from their relationship with Harber or its investors. The Code also contains policies involving the safeguarding of proprietary and non-public information along with restrictions on the use of insider information, or use of non-public information, regarding an investor.

Clients or prospective clients may request a copy of the firm's Code of Ethics by contacting Josh Davis, Harber's Chief Compliance Officer, at [josh@grahampartners.com](mailto:josh@grahampartners.com).

As a general policy, Harber does not effect principal transactions for client accounts. Harber itself does not hold securities, nor is it affiliated with a broker-dealer, thus has never done a principal transaction of this sort.

A principal transaction may also be deemed to have occurred if a security is crossed between an affiliated hedge fund and another client account. Harber may arrange these sorts of transactions when it needs to rebalance the portfolios of the Funds to adjust the relative size of holdings. Harber may generally rebalance following capital contributions or withdrawals that cause the weight of a holding (as a percent of equity), to differ more than a negligible amount from its target. Each such trade will be consistent with the investment objectives and policies of each of Harber's clients and will be transacted with respect to the applicable market price.

#### **Item 12: Brokerage Practices**

Harber or its affiliates are authorized to determine the broker or dealer to be used for each securities transaction for the Funds. When selecting brokers or dealers to execute transactions, Harber need not solicit competitive bids and does not have an obligation to seek the lowest available commission cost. It is not always Harber's practice to negotiate "execution only" commission rates, thus the Funds may be deemed to be paying for research, brokerage or other services provided by the broker which are included in the commission rate.

Section 28(e) of the Securities Exchange Act of 1934, as amended, is a "safe harbor" that permits a general partner to use commissions or "soft dollars" to obtain research and brokerage services that provide lawful and appropriate assistance in the investment decision-making process. Except for services that would be a Fund expense or as otherwise described below, Harber intends to limit the use of "soft dollars" to obtain research and brokerage services to services which constitute research and brokerage within the meaning of Section 28(e).

Products and services Harber obtained through soft dollar arrangements in the past year include (i) market data, from vendors such as Bloomberg, NYSE, NASDAQ, etc. (ii) research, from broker-dealers and third parties, (iii) an order management system and portfolio/risk management software, and (iv) portfolio performance data analysis software. Harber directed order flow to one or more agency brokerage firm(s) to generate soft dollar credits used to pay for services noted above. However, in general, research services within Section 28(e) may include, but are not limited to, proprietary research from brokers or third party consultants, which may be written, oral or electronic, research reports (including market research); certain financial newsletters and trade journals; software providing analysis of securities portfolios; corporate governance research and rating services; attendance at certain seminars and conferences; discussions with research analysts; meetings with corporate executives; consultants' advice on portfolio strategy; data services (including services providing market data, company financial data and economic data); advice from brokers on order execution; and certain proxy services. Brokerage services within Section 28(e) may include, but are not limited to, services related to the execution, clearing and settlement of securities transactions and functions incidental thereto (i.e., connectivity services between Harber or its affiliate and a broker-dealer and other relevant parties such as custodians); trading software operated by a broker-dealer to route orders; software that provides trade analytics and trading strategies; software used to transmit orders; clearance and settlement in connection with a trade; electronic communication of allocation instructions; routing settlement instructions; post trade matching of trade information; and services required by the SEC

or a self-regulatory organization such as comparison services, electronic confirms or trade affirmations. The use of commissions arising from a Fund's investment transactions for services other than research and brokerage is intended to be limited to services that would otherwise be a Fund expense. The use of commissions to obtain such other services would be outside the parameters of Section 28(e).

Harber uses soft dollar benefits to service all of its clients' accounts and not only those that generate the benefits. Because the brokerage and research benefit all accounts, soft dollar benefits are not proportionally allocated to any accounts that may generate different amounts of the soft dollar benefits. When Harber uses client brokerage commissions (or markups or markdowns) to obtain research or other products or services, Harber receives a benefit because it does not have to produce or pay for the research, products or services. As a result, Harber may have an incentive to select or recommend a broker-dealer based on its interest in receiving the research or other products or services, rather than on its clients' interest in receiving most favorable execution.

In some instances, Harber may receive a product or service that may be used only partially for functions within Section 28(e) (e.g. an order management system, trade analytical software or proxy services). In such instances, Harber intends to make a good faith effort to determine the relative proportion of the product or service used to assist Harber in carrying out its investment decision-making responsibilities and the relative proportion used for administrative or other purposes outside Section 28(e). The proportion of the product or service attributable to assisting Harber in carrying out its investment decision-making responsibilities will be paid through brokerage commissions generated by client transactions and the proportion attributable to administrative or other purposes outside Section 28(e) will be paid for by Harber or Harber Management, as appropriate, from their own resources.

Although Harber will make a good faith determination that the amount of commissions paid is reasonable in light of the products or services provided by a broker, commission rates are generally negotiable and thus, selecting brokers on the basis of considerations that are not limited to the applicable commission rates may result in higher transaction costs than would otherwise be obtainable. The receipt of such products or services and the determination of the appropriate allocation in the case of "mixed use" products or services create potential conflicts of interest between Harber and its clients.

In selecting brokers and negotiating commission rates, Harber will take into account the financial stability and reputation of brokerage firms, and the research, brokerage or other services provided by such brokers. Harber may place transactions with a broker or dealer that (i) provides Harber (or an affiliate) with the opportunity to participate in capital introduction events sponsored by the broker-dealer or (ii) refers investors to the Funds or other products advised by Harber (or an affiliate), if otherwise consistent with seeking best execution; provided Harber is not selecting the broker-dealer in recognition of the opportunity to participate in such capital introduction events or the referral of investors.

In the past year, Harber also directed order flow, or instructed an agency brokerage firm (used as an outsourced trading desk) to direct flow, sufficient to compensate broker-dealers, in amounts we designate, for research product. For the year, Harber formulated a plan, which it reviewed quarterly, setting annual targets for broker compensation, with brokers ranked (and compensated) by the perceived value to Harber of such research.

Harber does not consider, in selecting or recommending broker-dealers, any client referrals it may receive from a broker-dealer or third party.

When appropriate, Harber may, but is not required to, aggregate client orders to achieve more efficient execution or to provide for equitable treatment among accounts. Clients participating in aggregated trades will be allocated securities based on the average price or other equitable basis achieved for such trades.

### **Item 13: Review of Accounts**

Harber's Director of Trading monitors, daily, the Funds' profit and loss, market exposure and risk characteristics to ensure conformity with the Funds' investment objectives, and Harber provides the following written reports to clients:

- Monthly, a statistical portfolio summary is prepared by Harber's Chief Financial Officer, giving a concise overview of results, volatility, and performance metrics. Among other things, the summary reports (i) the month's results, (ii) trailing annualized standard deviation of the monthly results, (iii) trailing annualized performance data, and (iv) beta and r-squared metrics to the relevant indices.
- Monthly, a statement for each investor's account, delivered directly from the Funds' administrator.
- Quarterly, a letter written to investors in each fund outlining the firm's views on matters affecting the respective portfolio and a sampling of portfolio themes, as applicable.
- Annually, financial statements of the Funds, audited by Anchin, Block & Anchin LLP in the cases of Graham I and Graham II and by KPMG LLP in the case of Graham III, and Schedule K-1s.

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

The use of soft dollars arguably confers an economic benefit to Harber related to the advisory services that Harber provides to clients. As discussed in Item 12 above, conflicts of interest may arise from Harber's use of soft dollars. See Item 12 above for additional information concerning soft dollars and the types of research and brokerage services that Harber may acquire with soft dollars.

### **Item 15: Custody**

Because Harber is authorized to approve the payment of fees and other compensation by the Funds (calculated by the Fund administrator) to itself and its affiliate, and similarly approves the Funds' payments for third party services (such as audit and legal expenses), Harber may be deemed to have custody of the Funds' assets. In addition, Harber Management, Harber's affiliate and the general partner of Graham I, Graham II, and Graham III, has the custody of each such Fund. Harber Management complies with Rule 206(4)-2 under the Adviser Act ("Custody Rule")

by providing investors in such Funds with audited financial statements within 120 days of the Fund's fiscal year end in compliance with Rule 206(4)-2(b)(4) thereof.

#### **Item 16: Investment Discretion**

Harber has discretionary authority over the investment activities of the Funds. Harber receives discretionary authority from investors at the outset of an advisory relationship to select the identity and amount of securities to be bought or sold. This discretionary authority is granted to Harber pursuant to the Limited Partnership Agreement and the Subscription Agreement of each Fund. Notwithstanding its broad discretionary powers, Harber invests the assets of the Funds in accordance with the investment policies and objectives, as they may change from time to time, as described in the Private Placement Memorandum of each Fund.

#### **Item 17: Voting Client Securities**

Harber has adopted a proxy voting policy pursuant to Rule 206(4)-6 under the Advisers Act. The policy reflects the fact that Harber is a fiduciary to the Funds and, accordingly votes proxies in a manner consistent with the best interests of each Fund and its investors. As such, Harber exercises voting authority with respect to its clients' securities in accordance with the requirements of Rule 206(4)-6 under the Advisers Act. Harber's Managing Member reviews each proxy solicitation on a case-by-case basis in order to determine that any action taken is in the financial interest of Harber's clients. Because the number of securities held long is relatively modest, and proxy matters usually pertain to routine corporate governance matters, Harber does not retain the services of a proxy advisory firm.

Proxy proposals that are "routine", such as uncontested elections of directors or appointment of outside auditors, are presumed not to involve a material conflict of interest. In the event Harber believes a material conflict exists, its policy is to engage an independent third party to determine how to vote the proxy – Harber has not needed to take this course of action in the past year.

The Funds delegate voting responsibility to Harber, and thus do not instruct Harber how to vote a particular solicitation.

Harber may abstain from voting a Client proxy if Harber concludes that the effect on the Client's economic interests or the value of the portfolio holding is indeterminable or insignificant or gives rise to unjustifiable costs, whether financial or time in nature. With respect to its ERISA Clients (if any), Harber votes proxies in accordance with its duty of loyalty and prudence, and, to the extent required by applicable law or otherwise, compliance with the plan documents, as well as its duty to avoid prohibited transactions.

Clients may obtain a copy of Harber's proxy voting policies and procedures upon request by contacting Josh Davis, Harber's Chief Compliance Officer, at (212) 808-7432 or [josh@grahampartners.com](mailto:josh@grahampartners.com), and may also obtain information from us about how Harber voted any proxy.

**Item 18: Financial Information**

This item requires disclosure of any financial condition that is reasonably likely to impair Harber's ability to meet contractual commitments to clients. Currently, there is no financial condition that is reasonably likely to impair our ability to meet contractual commitments to clients.