

01 - SKK Ventures QP Fund PPM FINAL 2019-04-25

02 - SKK Ventures QP LLC Agreement FINAL 2019-04-25

03 - SKK Ventures QP Subscription Agreement FINAL 2019-05-06

04 - Form W-9

05 - Administrator Disclosure

06 - SKK Form ADV Part 2A June 2020

07 - SKK Principals Brochure Supplements - Combined

08 - ID Requirements

09 - Windgap Series B Supplement 2019-08-09

10 - Notice re Warehousing

11 - WGM190109A-014

**SKK VENTURES QP, LLC**  
A Delaware Limited Liability Company

**SKK VENTURES QP MANAGER, LLC**  
Manager

**SHEPHERD KAPLAN KROCHUK, LLC**  
Investment Manager

## **CONFIDENTIAL PRIVATE PLACEMENT MEMORANDUM**

**A PRIVATE OFFERING OF CLASS A LIMITED LIABILITY COMPANY INTERESTS OF SEPARATE SERIES (THE  
“INTERESTS”)**

April 25, 2019

THIS IS NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY THE INTERESTS  
DESCRIBED IN THIS MEMORANDUM IN ANY JURISDICTION TO ANY PERSON TO WHOM IT IS UNLAWFUL  
TO MAKE SUCH AN OFFER, SALE OR SOLICITATION.

## Directory

Manager  
SKK Ventures QP Manager, LLC  
c/o Shepherd Kaplan Krochuk, LLC  
125 Summer Street, Floor 22  
Boston, Massachusetts 02110

Investment Manager  
Shepherd Kaplan Krochuk, LLC  
125 Summer Street, Floor 22  
Boston, Massachusetts 02110

Independent Auditors  
PKF O'Connor Davies LLP  
665 Fifth Avenue  
New York, New York 10022

Legal Counsel  
Sullivan & Worcester LLP  
One Post Office Square  
Boston, Massachusetts 02109

AN INVESTMENT IN THE INTERESTS INVOLVES A HIGH DEGREE OF RISK.

SEE "CERTAIN RISK FACTORS" BELOW BEGINNING ON PAGE 17.

Risk factors include lack of diversification, lack of liquidity, and conflicts of interest, among others. Each prospective investor should be prepared to bear the risk of his, her or its investment for an indefinite period, and the investor should be able to withstand a total loss of his, her or its investment.

\* \* \*

NEITHER THE U.S. SECURITIES AND EXCHANGE COMMISSION NOR ANY STATE SECURITIES REGULATOR HAS APPROVED OR DISAPPROVED THESE SECURITIES, OR DETERMINED IF THIS MEMORANDUM IS TRUTHFUL OR COMPLETE. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE.

## NOTICES TO INVESTORS

ALL INVESTMENTS IN SECURITIES ENTAIL RISKS OF LOSS. AN INVESTMENT ALLOCATION TO INTERESTS INVOLVES CONSIDERABLE RISK AND IS HIGHLY SPECULATIVE. SEE "RISK FACTORS."

\* \* \*

INTERESTS ARE SUITABLE ONLY FOR SOPHISTICATED INVESTORS FOR WHOM AN INVESTMENT IN THE FUND DOES NOT CONSTITUTE A COMPLETE INVESTMENT PROGRAM, WHO DO NOT REQUIRE IMMEDIATE LIQUIDITY FOR THEIR INVESTMENT AND WHO FULLY UNDERSTAND AND ARE WILLING TO ASSUME THE RISKS INVOLVED IN AN INVESTMENT IN INTERESTS. THE FUND'S INVESTMENT PRACTICES, BY THEIR NATURE, MAY BE CONSIDERED TO INVOLVE A SUBSTANTIAL DEGREE OF RISK.

\* \* \*

THE INTERESTS HAVE NOT BEEN REGISTERED WITH THE U.S. SECURITIES AND EXCHANGE COMMISSION IN RELIANCE UPON ONE OR MORE EXEMPTIONS FROM REGISTRATION. IN ADDITION, THE INTERESTS HAVE NOT BEEN REGISTERED WITH ANY STATE SECURITIES REGULATOR IN RELIANCE UPON CERTAIN EXEMPTIONS FROM REGISTRATION SET FORTH IN APPLICABLE STATE SECURITIES LAWS. THE OFFERING IS BEING MADE ONLY TO PERSONS WHO ARE "QUALIFIED PURCHASERS," AS DEFINED IN THE INVESTMENT COMPANY ACT OF 1940, AND "ACCREDITED INVESTORS," AS DEFINED IN REGULATION D UNDER THE SECURITIES ACT OF 1933, EACH AS AMENDED. IF A PROSPECTIVE INVESTOR DOES NOT QUALIFY AS A QUALIFIED PURCHASER AND ACCREDITED INVESTOR, THE INVESTOR MAY NOT PURCHASE ANY INTERESTS IN THE OFFERING.

\* \* \*

THE INTERESTS MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS PURSUANT TO REGISTRATION OR AN EXEMPTION FROM REGISTRATION AND ARE ALSO SUBJECT TO SUBSTANTIAL CONTRACTUAL RESTRICTIONS AND LIMITATIONS ON TRANSFER AND RESALE. INVESTORS SHOULD BE AWARE THAT THEY MAY BE REQUIRED TO BEAR THE FINANCIAL RISK OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

\* \* \*

THE RECEIPT OR ACCEPTANCE OF THIS MEMORANDUM BY ANY PERSON CONSTITUTES SUCH PERSON'S AGREEMENT TO HOLD THE CONTENTS OF THIS MEMORANDUM AND ITS EXISTENCE AND ALL EXHIBITS AND RELATED DOCUMENTS IN THE STRICTEST CONFIDENCE. SUCH PERSON FURTHER AGREES THAT HE, SHE OR IT WILL NOT COPY, REPRODUCE OR DISTRIBUTE THIS MEMORANDUM, EXHIBITS OR RELATED DOCUMENTS, IN WHOLE OR IN PART, OR UTILIZE THE CONTENTS FOR ANY PURPOSE OTHER THAN TO EVALUATE AN INVESTMENT IN THE INTERESTS. IN ADDITION, SUCH PERSON AGREES TO RETURN THIS MEMORANDUM AND ANY COPIES A PROSPECTIVE INVESTOR HAS MADE, UPON REQUEST, IF HE, SHE OR IT DOES NOT SUBSCRIBE FOR ANY INTERESTS OFFERED THROUGH THIS MEMORANDUM.

\* \* \*

NO BROKER, DEALER, INVESTMENT ADVISER, SALESMAN OR ANY OTHER PERSON HAS BEEN AUTHORIZED TO MAKE ANY REPRESENTATIONS CONCERNING INTERESTS OR THE FUND OTHER THAN THOSE CONTAINED IN THIS MEMORANDUM AND RELATED AGREEMENTS, AND ANY REPRESENTATIONS NOT CONTAINED IN THIS MEMORANDUM AND RELATED AGREEMENTS, IF GIVEN OR MADE, SHOULD NOT BE RELIED UPON AS HAVING BEEN AUTHORIZED BY THE MANAGER OR THE FUND.

\* \* \*

INVESTORS MAY NOT CONSTRUE THE CONTENTS OF THIS MEMORANDUM OR ANY PRIOR OR SUBSEQUENT COMMUNICATION FROM THE FUND, THE MANAGER, THEIR AFFILIATES, AND EACH OF THEIR OFFICERS, EMPLOYEES, AGENTS, CONSULTANTS, AND PROFESSIONALS ASSOCIATED WITH THIS OFFERING AS LEGAL, TAX OR INVESTMENT ADVICE. EACH INVESTOR SHOULD CONSULT HIS, HER OR ITS PERSONAL LEGAL

COUNSEL, ACCOUNTANT, AND OTHER ADVISORS AS TO THE LEGAL, TAX, ECONOMIC AND OTHER CONSEQUENCES OF THE INVESTMENT DESCRIBED HEREIN AS TO ITS SUITABILITY FOR THE INVESTOR.

\* \* \*

THE DATE OF THIS MEMORANDUM IS STATED ON THE COVER PAGE. THE DELIVERY OF THIS MEMORANDUM AT ANY TIME AFTER THIS DATE DOES NOT IMPLY THAT THE INFORMATION CONTAINED IN THIS MEMORANDUM IS CORRECT AT THE TIME OF DELIVERY. THE STATEMENTS IN THIS MEMORANDUM ARE MADE AS OF THE DATE OF THIS MEMORANDUM, UNLESS ANOTHER DATE IS SPECIFIED.

\* \* \*

THE MANAGER RESERVES THE RIGHT TO TERMINATE, AT ANY TIME, THIS OFFERING AND SOLICITATION AND/OR THE FURTHER PARTICIPATION BY ANY PROSPECTIVE INVESTOR AT ANY TIME DURING THE SOLICITATION, INVESTIGATION, INVESTMENT OR SUBSCRIPTION PROCESS. THE MANAGER HAS THE RIGHT, IN ITS SOLE DISCRETION, TO MAKE OR NOT MAKE AN OFFER TO ANY PERSON TO, OR ACCEPT OR NOT ACCEPT, IN WHOLE OR IN PART, ANY SUBSCRIPTION SUBMITTED BY, ANY PROSPECTIVE INVESTOR AT ANY TIME FOR ANY REASON. NO SUBSCRIPTION WILL BE EFFECTIVE UNLESS AND UNTIL THE MANAGER HAS ACCEPTED IT IN WRITING.

\* \* \*

THE MANAGER WILL GIVE EACH PROSPECTIVE INVESTOR AND HIS, HER OR ITS INVESTMENT REPRESENTATIVE OR ADVISER AN OPPORTUNITY TO: (1) ASK QUESTIONS OF THE MANAGER CONCERNING THE TERMS AND CONDITIONS OF THIS OFFERING; (2) EXAMINE ADDITIONAL DOCUMENTS, INCLUDING ALL OF THE MATERIAL BOOKS AND RECORDS OF THE FUND AND ALL MATERIAL CONTRACTS AND DOCUMENTS RELATING TO THIS OFFERING (OTHER THAN INFORMATION SPECIFIC TO OTHER INVESTORS AND/OR THEIR SUBSCRIPTIONS OR COMMITMENTS TO THE FUND); AND (3) EXAMINE ANY ADDITIONAL INFORMATION NECESSARY TO VERIFY THE ACCURACY OF THE INFORMATION SET FORTH IN THIS MEMORANDUM, BUT ONLY TO THE EXTENT INTERESTS OR THE MANAGER POSSESS THE INFORMATION, CAN ACQUIRE IT WITHOUT UNREASONABLE EFFORT OR EXPENSE, AND CAN DISCLOSE IT WITHOUT VIOLATING ANY CONFIDENTIALITY OBLIGATIONS.

\* \* \*

THIS MEMORANDUM CONTAINS SUMMARIES BELIEVED BY THE MANAGER TO BE ACCURATE AS OF THE DATE HEREOF WITH RESPECT TO CERTAIN TERMS OF CERTAIN DOCUMENTS, BUT PROSPECTIVE INVESTORS SHOULD REFER TO THE ACTUAL DOCUMENTS FOR COMPLETE INFORMATION CONCERNING THE RIGHTS AND OBLIGATIONS OF THE PARTIES THERETO, AND ALL SUCH SUMMARIES ARE QUALIFIED IN THEIR ENTIRETY BY THIS REFERENCE. THIS MEMORANDUM INCLUDES A COMPLETE COPY OF THE LIMITED LIABILITY COMPANY AGREEMENT OF THE FUND (THE "AGREEMENT"), ATTACHED HERETO AS EXHIBIT A. EACH PROSPECTIVE INVESTOR SHOULD READ AND UNDERSTAND THE AGREEMENT. THIS MEMORANDUM INCLUDES A COMPLETE COPY OF THE FORM OF SUBSCRIPTION BOOKLET APPLICABLE TO A SUBSCRIPTION FOR INTERESTS, ATTACHED HERETO AS EXHIBIT B.

\* \* \*

THIS MEMORANDUM MAY BE ACCCOMPANIED FROM TIME TO TIME BY ONE OR MORE PRIVATE PLACEMENT MEMORANDUM SUPPLEMENTS (EACH, A "SUPPLEMENT"). EACH SUPPLEMENT WILL DESCRIBE A SPECIFIC SERIES OF INTERESTS IN THE FUND. EACH SUPPLEMENT WILL INCORPORATE THIS MEMORANDUM BY REFERENCE AND SHOULD BE READ IN CONJUNCTION WITH THIS MEMORANDUM IN ITS ENTIRETY.

\* \* \*

CERTAIN INFORMATION CONTAINED HEREIN HAS BEEN OBTAINED FROM SOURCES GENERALLY DEEMED TO BE RELIABLE; HOWEVER, PORTIONS OF SUCH INFORMATION MAY BE UNIQUELY WITHIN THE KNOWLEDGE OF PARTIES WHICH ARE UNAFFILIATED WITH THE MANAGER OR ITS AFFILIATES AND THEREFORE MAY NOT BE AMENABLE TO INDEPENDENT INVESTIGATION OR CONFIRMATION IN SUCH CASES. THE MANAGER HAS NOT INDEPENDENTLY INVESTIGATED OR CONFIRMED THE ACCURACY OR ADEQUACY OF ALL INFORMATION.

\* \* \*

THIS MEMORANDUM CONTAINS STATEMENTS ABOUT FUTURE EVENTS AND EXPECTATIONS THAT ARE CHARACTERIZED AS “FORWARD-LOOKING STATEMENTS.” FORWARD-LOOKING STATEMENTS ARE BASED ON THE BELIEFS, ASSUMPTIONS AND EXPECTATIONS OF FUTURE ECONOMIC PERFORMANCE AND INTENDED BUSINESS INVESTMENT ACTIVITIES OF THE FUND, TAKING INTO ACCOUNT THE INFORMATION CURRENTLY AVAILABLE TO THE FUND AND THE MANAGER. THESE STATEMENTS ARE NOT STATEMENTS OF HISTORICAL FACT. FORWARD-LOOKING STATEMENTS INVOLVE RISKS AND UNCERTAINTIES THAT MAY CAUSE ACTUAL RESULTS, PERFORMANCE OR FINANCIAL CONDITION TO BE MATERIALLY DIFFERENT FROM THE EXPECTATIONS OF FUTURE RESULTS, PERFORMANCE OR FINANCIAL CONDITION THAT ARE EXPRESSED OR IMPLIED IN SUCH FORWARD-LOOKING STATEMENTS. FACTORS THAT COULD CONTRIBUTE TO THESE DIFFERENCES INCLUDE THOSE FACTORS DISCUSSED IN “RISK FACTORS” AND ELSEWHERE IN THIS MEMORANDUM. THE MANAGER AND THE FUND EXPRESSLY LIMIT AND QUALIFY ANY FORWARD-LOOKING STATEMENTS ENTIRELY BY THESE CAUTIONARY FACTORS. THE WORDS “BELIEVE,” “MAY,” “WILL,” “SHOULD,” “ANTICIPATE,” “ESTIMATE,” “EXPECT,” “INTENDS,” “OBJECTIVE” OR SIMILAR WORDS, OR THE NEGATIVES OF THESE WORDS, ARE INTENDED TO IDENTIFY FORWARD-LOOKING STATEMENTS. A PROSPECTIVE INVESTOR IS CAUTIONED NOT TO PUT UNDUE RELIANCE OR EXPECTATION ON FORWARD-LOOKING STATEMENTS. THE MANAGER AND THE FUND DISCLAIM ANY INTENT OR OBLIGATION TO UPDATE ANY FORWARD-LOOKING STATEMENTS, WHETHER AS A RESULT OF NEW INFORMATION, FUTURE EVENTS OR OTHERWISE, WHETHER OCCURRING BEFORE OR AFTER THE DATE OF THIS MEMORANDUM.

\* \* \*

ALL PROSPECTIVE INVESTORS ARE CAUTIONED TO EVALUATE THE FINANCIAL AND ECONOMIC RISKS ASSOCIATED WITH THE OWNERSHIP OF INTERESTS IN THE CONTEXT OF CURRENT ECONOMIC CONDITIONS IN THE UNITED STATES AND WORLDWIDE, AS WELL AS TURMOIL, CHANGING CONDITIONS AND UNCERTAINTY IN THE FINANCIAL MARKETS.

\* \* \*

PROSPECTIVE INVESTORS SHOULD ANTICIPATE THAT ANY INVESTMENT IN INTERESTS WILL BE ILLIQUID AND MAY NOT BE READILY SOLD OR OTHERWISE CONVERTED INTO CASH.

\* \* \*

THE FUND IS NOT, AND IS NOT REGISTERED AS, AN INVESTMENT COMPANY UNDER THE INVESTMENT COMPANY ACT OF 1940, AS AMENDED (THE “1940 ACT”), AND THUS, INVESTORS IN INTERESTS WILL NOT HAVE THE BENEFIT OF THE PROTECTIONS AFFORDED BY THE 1940 ACT.

\* \* \*

SHEPHERD KAPLAN KROCHUK, LLC, A DELAWARE LIMITED LIABILITY COMPANY (THE “INVESTMENT MANAGER”), SERVES AS THE INVESTMENT ADVISER TO THE FUND. THE INVESTMENT MANAGER IS REGISTERED WITH THE SECURITIES AND EXCHANGE COMMISSION AS AN INVESTMENT ADVISER UNDER THE ADVISERS ACT. THE INVESTMENT MANAGER AND THE MANAGER ARE UNDER COMMON CONTROL, BUT MAY NOT HAVE IDENTICAL OWNERSHIP.

## CERTAIN STATE DISCLOSURES

THE SECURITIES OFFERED HEREUNDER HAVE NOT BEEN APPROVED OR DISAPPROVED BY ANY STATE SECURITIES COMMISSION, NOR HAVE THE SECURITIES OFFERED HEREUNDER BEEN REGISTERED PURSUANT TO THE SECURITIES LAWS OF ANY STATE. THE SECURITIES ARE BEING OFFERED PRIVATELY PURSUANT TO THE EXEMPTION PROVIDED BY RULE 506 PROMULGATED UNDER THE SECURITIES ACT. THE INTERESTS BEING OFFERED HEREBY ARE CONSIDERED “COVERED SECURITIES” AND AS SUCH NO STATE IS PERMITTED

TO IMPOSE ADDITIONAL NOTICE OR FILING REQUIREMENTS, OTHER THAN THE FILING OF SEC FORM D WITH CERTAIN STATES AND THE PAYMENT OF ANY APPLICABLE FEE IN CONNECTION THEREWITH.

\* \* \*

FOR NORTH CAROLINA RESIDENTS ONLY: IN MAKING AN INVESTMENT DECISION INVESTORS MUST RELY ON THEIR OWN EXAMINATION OF THE ISSUER AND THE TERMS OF THE OFFERING, INCLUDING THE MERITS AND RISKS INVOLVED. THESE SECURITIES HAVE NOT BEEN RECOMMENDED BY ANY FEDERAL OR STATE SECURITIES COMMISSION OR REGULATORY AUTHORITY. FURTHERMORE, THE FOREGOING AUTHORITIES HAVE NOT CONFIRMED THE ACCURACY OR DETERMINED THE ADEQUACY OF THIS DOCUMENT. ANY REPRESENTATION TO THE CONTRARY IS A CRIMINAL OFFENSE. THESE SECURITIES ARE SUBJECT TO RESTRICTIONS ON TRANSFERABILITY AND RESALE AND MAY NOT BE TRANSFERRED OR RESOLD EXCEPT AS PERMITTED UNDER THE SECURITIES ACT, AND THE APPLICABLE STATE SECURITIES LAWS. PURSUANT TO REGISTRATION OR EXEMPTION THEREFROM, INVESTORS SHOULD BE AWARE THAT THEY WILL BE REQUIRED TO BEAR THE FINANCIAL RISKS OF THIS INVESTMENT FOR AN INDEFINITE PERIOD OF TIME.

\* \* \*

FOR NEW HAMPSHIRE RESIDENTS ONLY: NEITHER THE FACT THAT A REGISTRATION STATEMENT OR AN APPLICATION FOR A LICENSE HAS BEEN FILED UNDER THE NEW HAMPSHIRE UNIFORM SECURITIES ACT (RSA 421-B)(THE “NH ACT”) WITH THE STATE OF NEW HAMPSHIRE NOR THE FACT THAT A SECURITY IS EFFECTIVELY REGISTERED OR A PERSON IS LICENSED IN THE STATE OF NEW HAMPSHIRE CONSTITUTES A FINDING BY THE SECRETARY OF STATE THAT ANY DOCUMENT FILED UNDER THE NH ACT IS TRUE, COMPLETE, AND NOT MISLEADING. NEITHER ANY SUCH FACT NOR THE FACT THAT AN EXEMPTION OR EXCEPTION IS AVAILABLE FOR A SECURITY OR A TRANSACTION MEANS THAT THE SECRETARY OF STATE HAS PASSED IN ANY WAY UPON THE MERITS OR QUALIFICATIONS OF OR RECOMMENDED OR GIVEN APPROVAL TO ANY PERSON, SECURITY, OR TRANSACTION. IT IS UNLAWFUL TO MAKE, OR CAUSE TO BE MADE, TO ANY PROSPECTIVE PURCHASER, CUSTOMER, OR CLIENT ANY REPRESENTATION INCONSISTENT WITH THE PROVISIONS OF THIS PARAGRAPH.

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## Summary of the Offering

The following information is only a summary of certain of the information in this Confidential Private Placement Memorandum (this “Memorandum”) and is qualified in its entirety by the Fund’s Limited Liability Company Agreement (the “Agreement”), a copy of which is attached hereto as Exhibit A. Capitalized terms not otherwise defined herein have the meanings assigned to them in Appendix I to the Agreement.

### The Fund

SKK Ventures QP, LLC (the “Fund”) is a limited liability company formed in 2019 and organized under the Delaware LLC Act.

### Fund’s Investment Objectives & Strategy

The primary objective of the Fund is to pursue capital appreciation by investing in Financial Instruments issued by operating companies engaged in certain sector groups determined from time to time by the Manager in its sole discretion. The Fund is authorized to issue series of Interests that will be allocated all profits and losses of the Fund relating to a specific Portfolio Interest or combination of Portfolio Interests. Important information specific to a series of Interests, including the Portfolio Interests relating to such series, are included in Private Placement Memorandum Supplements (each, a “Supplement”) accompanying this Memorandum. Each Supplement will incorporate this Memorandum and should be read in conjunction with this Memorandum in its entirety.

The general objectives of the Fund are to buy, sell, hold and otherwise invest in Financial Instruments, and to exercise all rights, powers, privileges and other incidents of ownership or possession with respect to Financial Instruments held or owned by the Fund and received in exchange or with respect thereto.

In pursuing its primary and general objectives, the Fund may enter into, make and perform all contracts and other undertakings and engage in all activities and transactions, as the Manager may consider necessary or advisable to carry out the foregoing purposes, including:

- Acquire long positions or short positions in Financial Instruments, and make purchases or sales increasing, decreasing, covering and liquidating such positions;
- Borrow or raise monies and obtain letters of credit without limitation as to amount, and secure the payment of any obligation of the Fund by mortgage on, or hypothecation or pledge of, all or any part of the property of the Fund; and
- Enter into credit, deposit and custodian agreements with banks, securities brokerage firms, futures commission merchants and other financial institutions (whether or not affiliated with the Fund or the Manager), open, maintain and close bank, brokerage and other accounts and draw checks or other orders for the payment of money or the delivery of instruments.

The Fund may engage in these activities directly or indirectly by investing in an investment entity, such as a so-called master fund, that may but is not required to be an Affiliate of the Manager.

All property owned by the Fund shall be owned by the Fund as an entity, and no Member, individually, shall have any direct ownership interest in such property.

### Maximum Offering Amount and Minimum Investment

The Fund does not have a set maximum offering amount. Rather, each individual series of Interests in the Fund may have a maximum offering amount based on specific transactions negotiated by the Fund with a particular Portfolio Entity. In general, the minimum investment amount in each series in the Fund by an individual investor is \$250,000. A different minimum investment amount may be specified for a particular series of Interests, and the minimum may be reduced or waived at any time and for any reason in the sole discretion of the Manager.

## Use of Proceeds

The Fund is expected to spend substantially all subscription proceeds (net of the Management Fee) to purchase Financial Instruments.

## Fees and Expenses

### *Management Fee.*

The Fund will pay a management fee to the Manager, which may be paid in cash or kind as determined by the Manager. The Management Fee shall be an upfront assessment equal to 8 percent of each Capital Contribution made by an investor in the Fund, other than by the Manager or any affiliate of the Manager. The Management Fee with respect to a Member shall be deemed earned in full by the Manager on the date the Member's Capital Contribution is made, and is non-refundable irrespective of, among other things, the duration of the Member's association with the Fund. The Management Fee is nonrecurring with respect to each Capital Contribution made by a Member. The Manager may, in its sole discretion, waive some or all of the Management Fee with respect to any Member's investment in any series. The Manager may also receive allocations and distributions from the Fund in the Manager's capacity as a Class B Member of the Fund, as described further on page 14.

### *Organizational and Initial Offering Fund Expenses.*

The Manager shall bear all organizational costs, fees, and expenses incurred by or on behalf of the Manager or its Affiliates in connection with the formation and organization of the Fund and the Manager (including the definitive agreements related thereto), including legal and accounting fees and all expenses incident thereto.

### *Fund Expenses, Generally.*

The Fund generally shall bear all costs and expenses incurred by the Fund in the purchase, holding, monitoring, redemption, sale, exchange or other disposition of Financial Instruments (whether or not ultimately consummated) or otherwise in its operations, including private placement fees, finder's fees, travel (and related expenses), interest on and fees and expenses arising out of borrowed money, property taxes on investments, including documentary, recording, stamp and transfer taxes, costs and expenses incurred for research, due diligence and other similar professional services (including third party professional or other consulting fees and expenses), brokerage fees or commissions, underwriting commissions and discounts, custodian or trustee fees, administrator or similar record keeping fees, or other similar charges (including any merger fees payable to third parties), legal, audit, accounting, investment banking, appraisal and consulting fees, costs and expenses relating to investments or proposed investments, taxes applicable to the Fund on account of its operations, fees incurred in connection with the maintenance of bank or custodian accounts, and all expenses incurred in connection with the registration of the Fund's securities under applicable securities laws or regulations.

The Fund shall also bear expenses incurred by the Manager in its capacity as the "partnership representative," the cost of liability and other premiums for insurance protecting the Fund, the Manager, any investment manager, and their respective partners, members, shareholders, managers, managing directors, officers, directors, trustees, employees, agents or affiliates in connection with the activities of the Fund, all out-of-pocket expenses associated with Fund communications with Members, including preparation and distribution of annual or other reports to the Members, costs associated with Fund meetings, all legal, regulatory, compliance audit, accounting, tax, consulting and professional services fees and expenses (including tax preparation) relating to the Fund and its activities.

### *Fund Fee Waivers and Expense Reimbursements; Recoupment.*

The Manager intends to advance sufficient funds to cover the expenses of the Fund up to the amount of the Management Fee to the extent that it is commercially reasonable to do so. The Manager has agreed to waive its right to reimbursement for Fund expenses paid by it (directly or through an affiliate other than the Fund) up to the amount of the total aggregate Management Fee paid to the Manager by the Fund. The Fund expense reimbursement waived by the Manager will be allocated to each series Interest held each Member based on the portion of the Management Fee allocated to such Interest (taking into account any waivers of Management Fee amounts). For the avoidance of doubt, the Manager will continue to have a right to reimbursement for any Fund expenses paid by the Manager (directly or through an affiliate other than the Fund) allocable to any Member's Interest in any series in excess of the aggregate amount of Management Fee allocated to such Interest.

*Liquidation Expenses, Generally.*

The Fund shall bear all liquidation costs, fees and expenses incurred by the Manager (or its designee) in connection with the liquidation of the Fund or any series of the Fund, and Manager at the end of the Fund's and Manager's respective terms, including legal and accounting fees and expenses and the cost of insurance against contingent or unknown liabilities.

*Expenses Associated with Liquidating Trusts.*

The Fund shall bear all organizational fees and expenses incurred by or on behalf of the Manager or any of its Affiliates in connection with the formation, organization, operation and liquidation of any Liquidating Trust and any special purpose investment vehicles provided for in the Agreement.

*Manager and Affiliate Expenses.*

The Manager and/or its affiliates shall bear all normal operating expenses incurred in connection with its management of the Fund, the Manager and its affiliates, except for those expenses borne by the Fund as expressly set forth in the Agreement.

### **Payments to Brokers-Dealers, Placement Agents and Others**

The Manager may deduct a percentage of the amount invested by a Class A Member in the Fund to pay sales fees or charges, on a fully disclosed basis, to a broker-dealer, placement agent or other person based upon the Capital Contribution of such Class A Member introduced to the Fund by such broker-dealer, placement agent, or other person. Any such sales fees or charges would be assessed against the referred Class A Member, (ii) not be a Capital Contribution of the Class A Member, and (iii) reduce the amount actually invested by such Class A Member in the Fund.

## Management Organization and Structure

### Manager & Investment Manager

SKK Ventures QP Manager, LLC (the “Manager”) serves as the Manager of the Fund, and Shepherd Kaplan Krochuk, LLC (the “Investment Manager”) serves as the investment manager to the Fund. Each of the Manager and the Investment Manager is organized under the Delaware LLC Act. The Investment Manager, but not the Manager, is registered with the SEC as an investment adviser under the Advisers Act. The Manager is responsible for the overall management of the Fund’s affairs. The Investment Manager has discretionary investment authority over the Fund’s assets, and provides all investment advisory services to the Fund.

**David Shepherd, Managing Member & Co-Chief Executive Officer** - Mr. Shepherd is a Managing Member, Co-Chief Executive Officer, and co-owner of the Investment Manager, with primary responsibility for the Institutional Advisory Practice. As Co-Chief Executive Officer, Mr. Shepherd oversees the firm’s investment research and fiduciary consulting resources. Mr. Shepherd co-chairs the firm’s Investment Committee and works closely with the Research Committee. Mr. Shepherd has decades of experience in investment research, product development and consulting to the pension, endowment and foundation and family office marketplace. He advises the Investment Committees of numerous corporations on investment policy design, monitoring regimens and fiduciary compliance. Mr. Shepherd is also a frequent public speaker, discussing risk and investment management and fiduciary governance. Mr. Shepherd’s focus since co-founding Shepherd Kaplan, LLC in 1998 has been on innovation. Specifically, on providing greater transparency and control to institutions and high-net-worth families in the investment consulting and wealth management space. He holds a degree in Economics and Finance from Boston University.

**David Kaplan, Managing Member & Co-Chief Executive Officer** - Mr. Kaplan is a Managing Member, Co-Chief Executive Officer, and co-owner of the Investment Manager. As Co-Chief Executive Officer, Mr. Kaplan is actively involved in the development of the firm’s intellectual property, consulting tools and technological capabilities. He also co-chairs the firm’s Investment Committee. Mr. Kaplan has decades of experience in investment management, product development, marketing and education in the financial services industry. He provides consultation to private investors, trusts and foundations with deep expertise in the investment portfolio design and risk management areas. Prior to co-founding Shepherd Kaplan, LLC, he held positions at Putnam Investments and The Equitable/AXA, and was also co-founder of a financial services marketing and consulting firm. Mr. Kaplan serves on the Board of Overseers for the Boys and Girls Club of Boston, and the Endowment Committee for Temple Beth Elohim. Mr. Kaplan holds a degree from the University of Massachusetts, Amherst.

**Timothy A. Krochuk, Managing Member & Co-Chief Executive Officer** - Mr. Krochuk is a Managing Member, Co-Chief Executive Officer, and co-owner of the Investment Manager. As Co-Chief Executive Officer, he is actively involved in the development of the firm’s intellectual property, consulting tools and technological capabilities. Mr. Krochuk is a portfolio manager for the private equity investment funds, including real estate investment funds, and has been involved in investment management and research since 1992. Prior to co-founding GRT Capital Partners, L.L.C in 2001, he commenced his career at Fidelity Investments, where he used advanced quantitative techniques to study a variety of industries. He was responsible for the development, programming and implementation of investment models used in managing over \$20 billion in public mutual funds. He is an experienced programmer and systems administrator. Mr. Krochuk holds the Chartered Financial Analyst designation. He also holds an AB in economics from Harvard College (1992). While at Harvard, Mr. Krochuk was also the President of TAK Programming Group Inc., a systems integration firm. He is a managing or governing board member of various companies in the U.S. and elsewhere. He is a Director and Chairman of the Audit Committee of Precision Therapeutics, Inc., a publicly traded company. He is also a member of the Young Presidents’ Organization (YPO) and holds the Master Professional Director Certification.

## Key Investor Information

### Series; Class A Interests; Investor Suitability

The Fund is authorized to issue series of Interests to which shall be allocated all profits and losses of the Fund relating to a Portfolio Interest or portfolio of Portfolio Interests. The Manager shall have the power to issue the authorized Interests on the terms and conditions determined by the Manager without an amendment of the Agreement.

Each series of Interests shall comprise two classes, which shall be designated as “Class A Interests” of the specific series and “Class B Interests” of the specific series. This Memorandum relates to Class A Interests. Only the Manager, an affiliate of the Manager, or a person authorized by the Manager will hold Class B Interests.

Class A Members of any series will be limited to persons who are (i) “Accredited Investors” as defined under the Securities Act and “Qualified Purchasers” as defined under the 1940 Act or (ii) Knowledgeable Employees or companies owned exclusively by Knowledgeable Employees or persons who acquire securities in accordance with Rule 3c-6 under the 1940 Act which were originally acquired by one or more Knowledgeable Employees.

### Class A Member Commitments

No Class A Member in any series is required to commit to investing in, or invest in, any other series by virtue of its Membership.

If a Class A Member of a specific series fails to make the entire Capital Contributions specified in the Subscription Agreement relating to such series and Counterpart Signature Page, no Interest of such series shall be issued to such prospective Class A Member, and such prospective Class A Member shall indemnify and hold the Fund and the other Members harmless from any loss, cost, or expense, including reasonable attorney fees caused by the failure to make the initial Capital Contribution. No Class A Interest will be issued to any Class A Member unless and until a Subscription Agreement has been executed by such Class A Member and accepted by the Manager. No transfer or other contribution of capital to the Fund will, in and of itself, be sufficient to grant a Class A Interest in the Fund.

### Valuation of Fund Assets

Due to the illiquid nature of the securities the Fund is expected to hold, the Fund is expected to engage a valuation consultant and establish a valuation annually for each material security that it holds.

### Investment Period and Duration

The Fund currently does not have any investment period. The Fund shall terminate, and the affairs of the Fund shall be wound up generally upon the election by the Manager in the event that all Fund assets have been distributed to the Members. The Manager may, in its sole and absolute discretion, establish a specific investment period for any series of Interests and may extend or terminate such series at any time in its sole discretion.

### Parallel Funds

The Manager or its affiliates may from time to time form and serve as the Manager (or in a similar management role) of one or more investment vehicles organized to accommodate the tax, regulatory or other special needs of investors (the “Parallel Funds”). The operating agreement of any Parallel Fund may contain terms that differ materially from the terms of the Agreement. Upon each purchase of Financial Instruments (other than short-term obligations such as money market instruments) by the Fund, the Manager intends to use commercially reasonable efforts to cause each Parallel Fund to invest

and divest contemporaneously with the Fund in each of its investments, on the same terms and conditions as the Fund (subject to adjustment by the Manager in its reasonable discretion).

## Allocations of Net Profits and Losses

The Net Profits and Net Losses of the Fund will be allocated to one or more series of the Fund. Series Allocated Net Profits will be allocated as follows:

- First: 100% to Class A Members of that series, pro rata in proportion to their respective portions of their Class A Interests in such series, until they have received an amount equal to the cumulative Series Allocated Net Losses previously allocated to such series minus the cumulative Series Allocated Net Profits previously allocated to such series.
- Second: 80% to Class A Members of such series, pro rata in proportion to their respective portions of their Class A Interests in such series, and 20% to the Manager.

Series Allocated Net Losses will be allocated as follows:

- First: 20% to the Manager to the extent of any prior Series Allocated Net Profits previously allocated to it with respect to such series, and 80% to the Class A Interests, pro rata in proportion to their respective portions of their Class A Interests in such series.
- Second: 100% to Class A Members of that series, pro rata in proportion to their respective portions of their Class A Interests in such series.

## Distributions

### *Determinations and Timing of Distributions, other than Liquidating Distributions.*

If, prior to the dissolution of the Fund, the Manager determines that the Fund has Distributable Cash and/or Distributable Financial Instruments, the Manager shall further determine the amount of such Distributable Cash and the portion of such Distributable Financial Instruments that are attributable to each series, and then cause the Fund to distribute such Distributable Cash and/or Distributable Financial Instruments to each Member of such series as soon as practicable in the manner described below.

### *Apportionment of Distributions, other than Liquidating Distributions.*

Generally, each distribution to a series other than liquidating distributions will be apportioned among the Members of such series in proportion to the aggregate Capital Account balances of such Members that are attributable to the series.

### *Tax Distributions.*

The Fund generally may make tax distributions to any Member or Members (including the Manager) in the discretion of the Manager. Tax distributions (if any) are treated as an advance and shall be applied against amounts otherwise distributable to the Members. Any such distributions are subject to certain limits based on maximum tax rates and amounts reasonably available for distribution.

### *Liquidating Distributions.*

The assets of the Fund or series generally shall be distributed in final liquidation of the Fund or series in the following order:

- To the creditors of the Fund, or in the case of a liquidation of a series, to the creditors of the Fund with respect to such series, other than Members, in the order of priority established by law, either by payment or by establishment of reserves;
- To the Members, or in the case of a liquidation of a series, to the Members of such series, in repayment of any loans made to, or other debts owed by, the Fund to such Members; and
- The balance, if any, to the Members and the Manager in accordance with the provisions relating to non-liquidating distributions.

In connection with the final liquidating distribution of the Fund, or at any earlier time determined by the Manager in its sole and absolute discretion, the Manager, in its capacity as the Class B Member, is required to contribute an amount to the Fund to generally restore distributed profit allocations that would have been reduced by subsequent losses, subject to certain conditions and limitations. Such amounts will be promptly distributed by the Fund to the Class A Members of the relevant series after being contributed by the Manager.

## Indemnification

The Agreement provides that the Fund will indemnify and hold harmless the Manager and its affiliates from and against any and all claims, actions, demands, losses, costs, expenses (including attorneys' fees and other expenses of litigation), damages, penalties or interest, as a result of any claim or legal proceeding relating to any action or inaction by any of them in connection with the business and affairs of the Fund (including any judgment, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action or proceeding); provided, that the party against whom the claim is made or legal proceeding is directed has not been found liable of gross negligence to the material detriment of the fund or found guilty of criminal fraud, in either case as determined by a final non-appealable court of competent jurisdiction. Any indemnity under the Agreement shall be paid from and to the extent of Fund assets only, and only to the extent that such indemnity does not violate applicable federal and state laws. The Fund shall, in the discretion of the Manager, advance amounts and/or pay expenses as incurred in connection with the indemnification obligation herein, including to the Manager and/or its Affiliates.

## Withdrawals/Redemptions

### *Withdrawals by the Members.*

No Member may withdraw any amount from its Capital Account unless such withdrawal is made pursuant to the provisions of distributions or liquidation, or with the prior written consent of the Manager. The Manager may permit a Member to withdraw some of all of the amount of its Capital Account balance at any time and/or under any conditions, or it may deny any request of a Member to withdraw, for any reason in its sole discretion.

### *Required Withdrawal.*

The Manager may (a) terminate the Interest of any Member with respect to any series or all series of the Fund at the end of any calendar month, upon at least 10 days' prior written notice and (b) terminate the Interest of any Member with respect to any series or all series of the Fund at any time upon at least 5 days' prior written notice, if, among other reasons, the Manager determines that the continued participation of such Member in the Fund might cause the Fund, the Manager, or any Member to violate any law, to cause the Fund to be an "investment company" for purposes of the 1940 Act, or if any litigation is commenced or threatened against the Fund or any Member arising out of, or relating to, the participation of such Member in the Fund.

## Reporting

The Manager shall cause to be prepared and distributed to each Member following each Fiscal Year an annual financial statement prepared in accordance with GAAP and audited by an independent certified public accounting firm.

## Tax Matters

The Manager shall transmit to each Member, within a commercially reasonable period after the close of each Fiscal Year, such Member's Schedule K-1 (Internal Revenue Service Form 1065) or an equivalent report indicating such Member's share of all items of income or gain, expense, loss or other deduction and tax credit of the Fund for such year, as well as the status of the Member's Capital Account as of

the end of such year. It anticipated that such reports for a given tax year will generally not be available until after April 15<sup>th</sup> of the following year, which in some cases may require investors to file an extension on their federal and state tax returns to report interests in the Fund.

#### **“Side Letters”**

The Manager may from time to time enter into a written agreement with one or more Members that provide such Member(s) with additional and/or different rights (including with respect to the Management Fee, allocations of Net Profits and Net Losses, access to information, minimum investment amounts, liquidity terms, and other rights) than such Member(s) have pursuant to this Memorandum and the Agreement. The Manager will not be required to notify any or all of the other Members of any such written agreements or any of the rights and/or terms or provisions thereof, nor will the Manager be required to offer such additional and/or different rights and/or terms to any or all of the other Members. The Manager has discretion to waive the Management Fee, allocations of Net Profits and Net Losses, minimum investment amounts, liquidity terms, and other rights of the fund with respect to any investor, and is expected to waive certain fund fees and requirements with respect to investments made by employees, affiliates, and advisory clients of the Investment Manager, among others.

#### **Confidentiality**

The Manager and Investment Manager intend to provide certain periodic information and updates to prospective and current Members of the Fund, including information that may be provided to the Manager or the Investment Manager on a confidential basis by a Portfolio Entity or a prospective Portfolio Entity, or that is otherwise of a sensitive nature. The Agreement requires, among other things, that each Member agrees that such Member will keep information related to the Fund, its Members, and its Portfolio Entities confidential in accordance with the terms of the Agreement.

## Certain Risk Factors

An investment in the Fund involves a substantial degree of risk and should be regarded as speculative. As a result, the purchase of Class A Interests of any series should be considered only by persons who can reasonably afford a loss of their entire investment. Each investor will be required to acknowledge that it made an independent decision to invest in the Fund and that it is not relying on the Fund, the Manager, the Investment Manager, or any other person or entity (other than such investor's own advisers) with respect to the legal, tax, financial, risk or other considerations involved in an investment in the Fund. Prospective investors should carefully consider, in addition to the matters set forth elsewhere herein, the following factors relating to the activities of the Fund.

### Suitability Considerations

An investment in the Fund should not exceed a limited portion of the risk segment of an investor's portfolio. No investor should invest an amount in the Fund that such investor cannot afford to lose. Investors in the Fund must be able to endure the long-term nature of their investment and withstand the loss of their entire investment.

### Limited Transferability of Fund Interests

Investment in the Fund should generally be considered an illiquid investment. The equity interests in the Fund have not been registered under the Securities Act, and such registration is not contemplated. No public market for these equity interests exists, and the transfer or sale of such equity interests is further subject to certain restrictions contained in the Agreement. Consequently, the Investors will generally not be able to liquidate their investment in the Fund other than as determined by the Manager, and otherwise as permitted under the Agreement.

### Fund Structure and Lack of Diversification

In general, the Agreement and structure of the Fund will provide that profits and losses based on certain assets and activities will be allocated to individual series of Interests, while general profits and losses of the Fund will be shared among all series. The Manager intends to engage auditors and prepare taxes for the Fund as a whole, not for individual series of Interests, which is intended to reduce expenses paid by each series. Since the Fund is not structured as a "series limited liability company" within the meaning of Delaware law, with statutory distinction between series, investments in the Fund are exposed to governance risk, liabilities, and other risks of the Fund as a whole, including those arising from other series of Interests.

An investment in Class A Interests of any one series generally represents an investment in only one Portfolio Interest or a small number of Portfolio Interests. By not being invested in any additional series, the Class A Member may be substantially adversely affected by being invested in only one of the Fund's Portfolio Interests when that one interest underperforms. At the same time, that one interest is subject to claims of the Fund's general creditors.

### Nature of Investments

Private equity investments by the Fund may involve positions in businesses that carry a significant amount of debt. Debt carries incremental risks and also may limit access to additional financing. Debt service requirements of Portfolio Entities may deplete the cash flow and inhibit the ability of such companies to expand. Should interest rates increase, such higher interest rates may have an adverse effect on such companies. There can be no assurance regarding the returns to investors in the Fund.

## Lack of Additional Funds

Following its initial investment in a Portfolio Entity, the Fund anticipates that the Portfolio Entity will require additional funds. There is no assurance that the Fund will make, or have sufficient resources to make, such follow-on investments, or that the Portfolio Entity will be able to secure such additional funding from other sources. Any decision by the Fund not to make follow-on investments or the inability to make such investments may have a substantial adverse impact on a Portfolio Entity in need of such additional funding or may result in missed opportunities for the Fund to increase its participation in successful operations. Either of these may adversely affect the value of assets held by the Fund. In addition, the Fund's Portfolio Interests risk dilution from Portfolio Entity financings in which the Fund is unable or unwilling to participate.

## Short Operating History of portfolio Entities

The Fund intends to invest in seed and early-stage companies that involve a high degree of risk and that may have substantial variation in operating results from period to period. These seed and early-stage companies will have little or no operating history and will most likely need substantial additional investments of capital to support expansion and achieve their business objectives. These companies can experience failures or substantial declines in value at any stage and some of these companies may face intense market competition. There can be no assurance that any of the Fund's investments will be successful and there is no assurance that additional capital, if needed, will be available to these companies. The Fund may sustain losses with respect to some or all of its investments.

## Lack of Liquidity in Fund Investments

It is unlikely that there will be a public market for investments held by the Fund. The Fund will generally not be able to sell its investments publicly unless their sale is registered under applicable federal and state securities laws or unless an exemption from such registration requirements is available. Additionally, the Fund may be prohibited by regulations and contractual obligations from selling investments for an extended period of time.

## Financial Market Fluctuations

Fluctuations in the market prices of private equity assets may affect the value of the investments held by the Fund. Instability in the securities markets may also increase the risks inherent in the Fund's investments. The ability of the Fund to liquidate its investments may depend on the ability of Portfolio Entities to sell securities.

## Long-Term Investment

Factors such as overall economic conditions, the competitive environment, the limited availability of appropriate potential investments and access to public markets or potential acquirers may cause the Fund to be unable to realize substantial income or capital gains for an extended period of time. The Fund will continue to be exposed to expenses and liabilities even during periods in which its assets are illiquid and not generating any capital appreciation or income.

## Insufficient Cash for Tax Distribution

Distributions of cash from the Fund may be insufficient for an Investor to pay his or her income tax liability with respect to the Fund's taxable net income.

## General Economic Conditions

General economic conditions may affect the activities of the Fund. Interest rates, the prices of securities, and participation by other investors in the financial markets may also affect the value of securities purchased by the Fund or considered for purchase.

## No Registration under the 1940 Act

The Fund is not, and will not be registered as, an investment company under 1940 Act. Consequently, none of the investor protections of the 1940 Act will apply.

## No Separate Counsel

Sullivan & Worcester LLP (“Sullivan & Worcester”) has served as legal and tax adviser to the Fund, the Manager and the Investment Manager in connection with this Offering. No independent legal, tax, financial or investment counsel has been retained to represent the investors in the Fund. As such, the terms of the Fund have not been independently negotiated or reviewed. The terms of the Fund may have been different if they were independently negotiated or reviewed. A prospective investor should engage his, her or its own legal counsel before investing in the Fund.

## Conflict of Interests

With respect to any investment by a series of the Fund in a Portfolio Interest, there will be inherent conflicts of interests between the Class A Members and the Class B Members of the same series, between the series and any Parallel Fund investing in the same Portfolio Interest, as well as between the series and any other series of the Fund which invests in Financial Instruments issued by the same Portfolio Entity that issued the Portfolio Interests. The Investment Manager attempts to manage these conflicts to the extent practical although it does not make any guarantee that it will be able to do so.

The Manager and Investment Manager may give advice or take actions with respect to other client accounts, including Parallel Funds and other private funds, that differs from advice given with respect to the Fund. The opportunity to co-invest may be made available to certain clients of the Investment Manager, to strategic investors, or to others, at the discretion of the Manager and Investment Manager. The opportunity to co-invest may not be granted to any investor, even if such investor requests such an opportunity and is financially qualified to make such an investment.

In some cases, the Fund may make multiple investments in the same Portfolio Entity. For example, the Fund may make investments in different classes or series of equity or debt of a Portfolio Entity, at the same time or at different times. In such circumstances, the Fund may from time to time have the opportunity to exercise rights and privileges in a way that may affect different Fund series differently or may affect investors in the Fund differently from other clients, principals or employees of the Investment Manager, including a Parallel Fund or other private fund. Also, certain securities held by a series of the Fund may be subordinate to other series of the Fund or other clients, principals or employees of the Investment Manager for purposes of key Portfolio Entity decisions, bankruptcy proceedings, and other corporate actions. In such cases, the Manager and Investment Manager may face conflicting duties or conflicts of interest in exercising such rights and privileges. The Manager and Investment Manager intends to attempt to mitigate such conflicts in a way that is reasonable and fair under the specific circumstances.

## *Relationships with Portfolio Entities*

In some cases, the Fund may have a right to appoint directors to the board of directors of a Portfolio Entity, or other comparable positions. In such cases, the Manager will have discretion to exercise such appointment, and may delegate such discretion to the Investment Manager. In his or her capacity as a director, the person appointed by the Manager or Investment Manager would generally be obligated to act in the best interests of the Portfolio Entity and its shareholders, which could potentially conflict with the interests of the Fund and its Members. In some cases, individuals appointed to the board of a Portfolio Entity may receive compensation from the Portfolio Entity for their services to such entity, which compensation may include cash, securities, a combination of cash and securities, or other forms of compensation. Such compensation would generally be retained by the individual so long as the Manager and Investment Manager deem the compensation to be reasonable at the time it is given in light of the services such individual is providing to the Portfolio Entity, and the compensation does not

unduly create or exacerbate any conflict between the duties of such individual, the Manager or the Investment Manager to the Fund and the Portfolio Entity.

In addition, through such positions with Portfolio Entities the Manager and Investment Manager may come into possession of information about the Portfolio Entity or its services that differs from information to which Fund Members will have access by virtue of the directorship or otherwise. The Manager and Investment Manager do not undertake to provide such information to Fund Members, now or in the future. The Manager and Investment Manager may also have different degrees of contact with the Portfolio Entities than you may in the future.

#### *Conflicts with other Business Interests*

The Manager, Investment Manager, and their employees, officers, members, managers, clients and other affiliates are active in the sectors and industries in which the Fund is expected to invest, both in connection with the Fund and in other ventures. This activity is expected to be beneficial to the Fund by providing a pipeline of investment opportunities, relevant industry experience and synergistic opportunities for Portfolio Entities, the Fund and Members. In some cases, these activities may cause interests of such individuals and entities to conflict with the interests of the Fund and its Members. The Manager and Investment Manager will take steps that they reasonably believe will mitigate any material conflicts that may arise.

#### *Incentive Allocation*

The Inventive Allocation to the Manager may create incentives for the Manager to manage the Fund in a way that could lead to outcomes less favorable than if the Manager would not receive any Incentive Allocation. For example the Manager may have an incentive to make investments that are riskier or more speculative than would otherwise be the case, since the Manager would participate in the gains, but not generally in the losses, caused any such investment. In addition, because the Incentive Allocation is determined with respect to an individual series of the Fund, an investor that holds interests in more than one series of the Fund may be subject to an Incentive Allocation in one series despite suffering losses from another series, or an overall net loss.

#### *Minority Investments or Lead Investments*

With respect to investments in which the Fund would be a minority investor, the Fund may need to rely on the lead investors to negotiate favorable terms for the Fund and the other investors in the syndicate. In other cases, the Fund may be the lead investor in a financing series. In those cases, the Fund, the Manager, and the Investment Manager will be responsible for negotiating terms of an investment on its own behalf, and also on behalf of other investors or potential investors. The Manager or the Investment Manager may have a conflict of interest in negotiating the investment, or relying on the negotiation conducted by the lead investor, due to other investments, business relationships, director and officer appointments, and other relationships with the Portfolio Entity, the lead investor, or other investors in the syndicate. The Manager or the Investment Manager may also have a conflict of interest where it has made formal or informal estimates or commitments to a Portfolio Entity or lead investor regarding the amount of capital that is likely to be committed to a series by the Fund or others.

## Inquiries

You are invited to, and it is highly recommended that you do, meet with the Manager for further explanation of the terms and conditions of this offering of Class A Interests and to obtain any additional information necessary to verify the information contained in this Memorandum, to the extent the Manager possesses such information or can acquire it without unreasonable effort or expense. Requests for such information should be directed to:

SKK VENTURES QP, LLC  
c/o Shepherd Kaplan Krochuk, LLC  
125 Summer Street, Floor 22  
Boston, Massachusetts 02110  
Attention: Investor Relations  
Telephone: +1 (617) 896-1600  
Email: [investorrelations@skk-llc.com](mailto:investorrelations@skk-llc.com)

## **Exhibit A: Limited Liability Company Agreement**

## **Exhibit B: Form of Subscription Booklet**

**SKK VENTURES QP, LLC**  
A DELAWARE LIMITED LIABILITY COMPANY

**LIMITED LIABILITY COMPANY AGREEMENT**

**THIS IS NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY ANY INTEREST IN THE FUND IN ANY JURISDICTION TO ANY PERSON TO WHOM IT IS UNLAWFUL TO MAKE SUCH AN OFFER OR SALE.**

This Agreement (this “Agreement”) is entered into as of \_\_\_\_\_ by and among SKK Ventures QP Manager, LLC, a Delaware limited liability company (the “Manager”), and such persons who become Members in accordance with the terms hereof and who have not ceased to be Members (the “Class A Members”; and, together with the Manager in its capacity as a Class B Member, the “Members”).

All capitalized terms used in this Agreement, unless otherwise defined, are defined in Appendix I attached hereto.

## SECTION 1 GENERAL PROVISIONS

- 1.1 **Formation of Fund/Rights and Obligations of the Members.** The Fund was formed as a limited liability company under the Delaware LLC Act by filing the Certificate with the Delaware Secretary of State. The Members hereby direct the Manager promptly to file or record to file or record any additional, supplemental or amended Certificate and like documents as the Manager shall deem necessary or advisable in accordance herewith. The rights and obligations of any Member shall be determined pursuant to the Delaware LLC Act and this Agreement. To the extent that the rights or obligations of any Member are different by reason of any provision of this Agreement than they would be in the absence of such provisions, this Agreement shall control to the extent permitted by the Delaware LLC Act.
- 1.2 **Fund Name.** The name of the Fund is “SKK Ventures QP, LLC”
- 1.3 **Term of Fund.** The Fund began on the date that the Certificate was filed with the Delaware Secretary of State pursuant to the Delaware LLC Act. The Fund shall continue indefinitely; provided, however, that the Fund shall be terminated and liquidated forthwith upon the occurrence of any one of the events set forth in Section 15.1.
- 1.4 **Place of Business.** The Fund’s principal place of business and executive offices shall be the offices of the Manager, which are located at c/o Shepherd Kaplan Krochuk, LLC, 125 Summer Street, 22nd Floor, Boston, Massachusetts 02110, or elsewhere as the Manager may from time to time determine. The Fund may have more than one office as may from time to time be determined by the Manager.
- 1.5 **Agent for Service of Process.** The agent for service of process of the Fund in Delaware shall be Corporation Service Company, whose address is: 251 Little Falls Drive, Wilmington, Delaware 19808. The Manager may change such agent for service of process or such address from time to time in the manner provided by applicable law.

## SECTION 2 OBJECTIVES AND ACTIVITIES OF THE FUND

- 2.1 **Objectives.**
  - (a) The primary objective of the Fund is to pursue capital appreciation by investing in Financial Instruments issued by operating companies engaged in certain sector groups determined from time to time by the Manager in its sole discretion. The general objectives of the Fund are to buy, sell, hold and otherwise invest in Financial Instruments and to exercise all rights, powers, privileges and other

incidents of ownership or possession with respect to Financial Instruments held or owned by the Fund and received in exchange or with respect thereto.

- (b) In pursuing its primary and general objectives, the Fund may enter into, make and perform all contracts and other undertakings and engage in all activities and transactions, as the Manager may consider necessary or advisable to carry out the foregoing purposes, including:
    - (i) Acquire long positions or short positions in Financial Instruments, and make purchases or sales increasing, decreasing, covering and liquidating such positions;
    - (ii) Borrow or raise monies and obtain letters of credit without limitation as to amount, and secure the payment of any obligation of the Fund by mortgage on, or hypothecation or pledge of, all or any part of the property of the Fund; and
    - (iii) Enter into credit, deposit and custodian agreements with banks, securities brokerage firms, futures commission merchants and other financial institutions (whether or not affiliated with the Fund or the Manager), open, maintain and close bank, brokerage and other accounts and draw checks or other orders for the payment of money or the delivery of instruments.
  - (c) The Fund may engage in these activities directly or indirectly by investing in an investment entity, such as a so-called master fund, that may but is not required to be an Affiliate of the Manager.
  - (d) All property owned by the Fund shall be owned by the Fund as an entity, and no Member, individually, shall have any ownership interest in such property.
- 2.2 **Other Activities.** In addition to pursuing the objectives of the Fund as described in Section 2.1, the Fund may engage in any lawful act or activity for which limited liability companies may be formed under the Delaware LLC Act, and any and all activities necessary or incidental thereto.

### **SECTION 3 MANAGER & MANAGEMENT OF THE FUND**

- 3.1 **No Authority in Limited Management of the Fund.** The Members shall take no part in the management or control of the Fund's business and shall have no authority to act for or bind the Fund.
- 3.2 **Initial Manager.** The Manager is the sole manager of the Fund as of the date hereof.
- 3.3 **Additional Managers.** The Manager may admit additional managers to the Fund at such times as the Manager shall determine, without the consent of the Class A Members. If at any time there is more than one Manager, the Managers shall be jointly and severally responsible for performing the duties of the Manager hereunder and shall manage the Fund by consensus between or among them, but unless otherwise specifically provided herein, any one Manager acting alone shall have all of the power and authority of the Managers hereunder.

3.4 **Powers and Authority of the Manager.** Subject to the Delaware LLC Act and the terms and conditions of this Agreement, the Manager shall have the exclusive power and authority to manage the business and affairs of the Fund. Without in any way intending to limit the powers and authority of the Manager, the Manager shall have the right, power and authority on behalf of the Fund (or to delegate any portion of such rights, power and authority) to:

- (a) Provide to the Fund all portfolio management services required by the Fund;
- (b) Select one or more investment managers and/or sub-advisers, each of whom may be an Affiliate of the Manager, and pursuant to an investment management agreement by and among the Fund, the Manager and such investment manager, on such terms as the Manager shall determine, delegate to such person the obligation to provide all or any portion of the portfolio management services required by the Fund, as well as from time to time assign values to the assets and liabilities of the Fund in accordance with Section 3.4(j); provided, that (i) nothing herein shall require the Manager to select a person to serve as investment manager or sub-adviser, and (ii) all compensation paid to such person for performing such services shall be paid by the Manager from the amounts received by the Manager pursuant to Section 4.1 rather than by the Fund pursuant to Section 4.2;
- (c) Cause the Fund to incur any and all fees and expenses as described in Sections 4.1, 4.2, and 5.2;
- (d) Acquire and enter into any contract of insurance that the Manager determines is necessary or appropriate for the protection of the Fund and the Manager or for any purpose convenient or beneficial to the Fund;
- (e) Employ persons, whether full time or part time, in the operation and management of the business of the Fund, on such terms and for such compensation as the Manager shall determine, regardless of whether or not such persons also may be employed by the Manager or its Affiliates;
- (f) File, conduct and defend legal proceedings of any form, including proceedings against Members, and to compromise and settle any such proceedings or any claims, including claims against Members, on whatever terms deemed appropriate by the Manager;
- (g) Maintain margin accounts with brokers, pledge securities for loans and, in connection with any such pledge, effect borrowings from brokers or banks in such amounts as may be determined from time to time; and
- (h) Open brokerage, bank and other accounts and, to the extent that funds are not invested, to deposit and maintain such funds in the name of the Fund in such accounts and to temporarily invest such funds in short-term U.S. government obligations, certificates of deposit, commercial paper and other money market instruments, including repurchase agreements with respect to such obligations, and money market funds; provided, however, that except as expressly provided herein, the Fund's assets shall not be commingled by the Manager or an Affiliate of the Manager with the assets of any other person or entity;
- (i) Transact business through brokers and dealers and other persons selected by the Manager in its sole discretion, and in selecting such brokers, dealers and other persons, determine the compensation payable to such persons, taking into account the value of any research and brokerage services or products provided by such

persons to the Manager or the Fund; provided that nothing herein shall require the Manager to select any broker or dealer solely because such broker or dealer may be able to provide transactional services at lower rates of compensation;

- (j) Value the assets and liabilities of the Fund in accordance with the terms of this Agreement;
- (k) Acquire and enter into any contract of insurance that the Manager deems necessary or appropriate for the protection of the Fund and the Manager or for any purpose convenient or beneficial to the Fund;
- (l) Serve as the “partnership representative” of the Fund within the meaning of Code section 6223(a) and Section 16 unless another person is designated as the “partnership representative” of the Fund by Members owning in the aggregate more than 50 percent of the Interests held by all Members;
- (m) Select as its accounting year the annual period ending December 31 or any other Fiscal Year as is permitted by the IRS;
- (n) Engage independent accountants, attorneys, administrators, custodians, consultants and such other persons as the Manager may deem necessary or advisable;
- (o) Establish and maintain for the conduct of Fund affairs one or more offices and in connection therewith rent or acquire office space, engage personnel, whether part time or full time, and do such other acts and incur such expenses as the Manager may deem necessary or advisable in connection with maintenance or administration of such office;
- (p) Prepare (or cause to be prepared), execute, acknowledge and/or deliver any and all instruments to effectuate the business of the Fund, including annual and/or interim reports, a copy of which shall be delivered to each Member, as provided in Section 3.11(c) and Section 3.11(d);
- (q) Establish such reserves as the Manager shall, in its reasonable discretion, deem appropriate to pay current and future, definite, contingent and possible obligations of the Fund;
- (r) Require a provision in any Fund contract stating in substance that the Manager shall not have any personal liability therefore, but that the person or entity contracting with the Fund is to look solely to the Fund and its assets for satisfaction; and
- (s) Do any act, engage in any activity or execute any agreement of any nature, necessary or incidental to the accomplishment of the purposes of the Fund in accordance with the provisions of this Agreement, and all applicable federal, state and local laws and regulations.

3.5 **Parallel Funds.** The Manager or its Affiliates may form and serve as the general partner (or in a similar management role) of one or more investment vehicles organized to accommodate the tax, regulatory or other special needs of investors (“Parallel Funds”). The limited liability company agreement of any Parallel Fund may contain terms that differ materially from the terms of this Agreement. Upon each purchase of Financial Instruments (other than short-term obligations such as money market instruments) by the Fund, the Manager shall use commercially reasonable efforts to cause any Parallel Fund to invest on the same terms and conditions as the Fund (subject to adjustment by the Manager in its

sole discretion); provided, however, that a Parallel Fund shall not be required to make any such investment in a Financial Instrument if (a) the Manager receives from the issuer thereof a written notice to the effect that the issuer will not permit such Parallel Fund to invest on the same terms as the Fund, or (b) such investment would violate the terms of the governing agreement of any such Parallel Fund.

- 3.6 **Investment Opportunities.** The allocation of investment opportunities among the Fund and other clients and accounts of the Manager or any of its Affiliates shall be determined in accordance with policy established by the Manager or its Affiliates, as in effect from time to time. Notwithstanding the foregoing, this Agreement shall not: (a) require the Manager, any Affiliate of the Manager, or any manager, member, general partner, director, officer, shareholder, or partner of any of the Manager or any of its Affiliates to offer the Fund any investment opportunity that the Manager reasonably believes is not of a kind suitable for investment by the Fund or is inconsistent with the Fund's objectives; (b) otherwise limit or restrict any of such persons from buying, selling, investing in or otherwise dealing with any Financial Instruments or other investments; or (c) otherwise limit or restrict any of such persons from engaging in business with, having investment responsibilities for, rendering investment banking, commercial banking or investment or other advisory services to, performing other services for or collecting fees from, any person.
- 3.7 **Devotion of Time and Resources.** The Manager shall devote so much of its time and efforts to the affairs of the Fund as may, in its judgment, be necessary to accomplish the purposes of the Fund. Notwithstanding any of the foregoing, nothing herein shall (a) require the Manager to devote its full time or resources to the business of the Fund; or (b) subject to the requirements of Section 3.6, prohibit the Manager from buying or selling Financial Instruments for its own account, including the same Financial Instruments as are purchased, sold or held by the Fund.
- 3.8 **No Prohibition Against Other Business Ventures.** Any of the Manager and its Affiliates may engage and hold interests in other business ventures of every kind and description for its own account, including other collective investment funds similar to the Fund, whether or not such business ventures are in direct or indirect competition with the Fund, and whether or not the Fund or any of the Members also has an interest therein. Any of the Manager and its Affiliates may serve for compensation as a director, officer, employee, or consultant of any Portfolio Entity or any Affiliate of a Portfolio Entity. Nothing in this Section 3.8 or in Section 3.7 shall require any person to have to account to the Fund or any Member for any profits or other benefits derived from any such activity, or impose any obligation on any person to offer any interest in any such activity to the Fund or any Member.
- 3.9 **Consequences of Other Activities.** The Members hereby acknowledge that the Manager may be prohibited from taking action for the benefit of the Fund because: (a) the Manager acquired confidential information or incurred an obligation in connection with an outside activity permitted of the Manager by this Agreement; (b) an Affiliate, agent, shareholder, member or employee of the Manager serves as an officer or director of a company in which the Fund has invested; or (c) in connection with activities undertaken by the Manager, any of its shareholders, members, managers, employees or Affiliates prior to the date hereof. In addition to the provisions of Section 5.1, no person shall be liable to the Fund or any Member for any failure to act for the benefit of the Fund for one or more of the reasons described in the preceding sentence.
- 3.10 **Duty to Maintain Records of Names, Addresses, Interests of the Members.** The Manager shall maintain at all times records reflecting the name, address and Interest of each Member. Such records shall be kept on file at all times at the principal place of business of the Fund. Any Member that intends for the Fund to change its address on the records of

the Fund shall notify the Manager in writing with its request and, except if such request is unreasonable, the Manager promptly shall take such action as is necessary or desirable to change the records of the Fund as requested.

3.11 **Duty to Keep Books, Financial and Tax Reports**

- (a) At all times during the existence of the Fund, the Manager shall keep true and complete records and books of account, in which each transaction of the Fund shall be entered fully and accurately. The Manager has the power, in its sole and absolute discretion, to delegate some or all of the administrative bookkeeping functions relating to the Fund to an administrator or other agent, which may be the Fund's independent auditors.
- (b) Following each Capital Contribution, withdrawal or distribution as contemplated by this Agreement, the Manager shall cause the Fund's records to reflect accurately such Capital Contribution, withdrawal or distribution.
- (c) The Manager shall cause to be prepared and distributed to each Member following each Fiscal Year an annual financial statement prepared in accordance with GAAP and audited by an independent certified public accounting firm. The Manager shall cause to be prepared and filed all federal, state and local income, franchise, gross receipts, payroll and other tax returns that the Fund is obligated to file.
- (d) Copies of all Fund tax returns, information returns or reports shall be available to all Members after the close of the Fiscal Year at the offices of the Fund. Copies of the information for each Member to prepare its income tax returns shall be distributed to such Member after the close of the Fiscal Year. The Manager may agree to provide certain Members with additional information on the underlying investments of the Fund, as well as heightened access to the Manager and its employees for relevant information.

3.12 **Actions of Manager.** The Manager is authorized, directed and empowered to act individually on behalf of the Fund, and in accordance therewith, to execute all documents and instruments on behalf of the Fund. Third parties may rely on execution of any document on behalf of the Fund by the Manager.

## **SECTION 4 FEES AND EXPENSES**

4.1 **Management Fee.** In addition to the allocations and distributions to the Manager in its capacity as a Member, the Fund will pay a management fee to the Manager, which may be paid in cash or kind as determined by the Manager (the "Management Fee"). The Management Fee shall be an upfront assessment equal to 8 percent of each Capital Contribution made by an investor in the Fund, other than by the Manager or any Affiliate of the Manager. The Management Fee with respect to a Member shall be deemed earned in full by the Manager on the date the Member's Capital Contribution is made, and is non-refundable irrespective of the duration of the Member's association with the Fund, the disposition of the Fund's assets, the occurrence of an event described in Section 15.1(a), the Transfer of the Member's Interests, or otherwise. The Management Fee is nonrecurring with respect to each Capital Contribution made by a Member.

4.2 **Expenses**

- (a) The Fund shall bear all costs and expenses incurred by the Fund in the purchase, holding, monitoring, redemption, sale, exchange or other disposition of Financial Instruments (whether or not ultimately consummated) or otherwise in its operations, including private placement fees, finder's fees, travel (and related expenses), interest on and fees and expenses arising out of borrowed money, property taxes on investments, including documentary, recording, stamp and transfer taxes, costs and expenses incurred for research, due diligence and other similar professional services (including third-party professional or other consulting fees and expenses), brokerage fees or commissions, underwriting commissions and discounts, custodian or trustee fees, administrator or similar record keeping fees, or other similar charges (including any merger fees payable to third parties), legal, audit, accounting, investment banking, appraisal and consulting fees, costs and expenses relating to investments or proposed investments, taxes applicable to the Fund on account of its operations, fees incurred in connection with the maintenance of bank or custodian accounts, and all expenses incurred in connection with the registration of the Fund's securities under applicable securities laws or regulations.
- (b) The Fund shall also bear expenses incurred by the Manager in its capacity as the Partnership Representative, the cost of liability and other premiums for insurance protecting the Fund, the Manager, any investment manager, and their respective partners, members, shareholders, managers, managing directors, officers, directors, trustees, employees, agents or affiliates in connection with the activities of the Fund, all out-of-pocket expenses associated with Fund communications with Members, including preparation and distribution of annual or other reports to the Members, costs associated with Fund meetings, all legal, regulatory, compliance audit, accounting, tax, consulting and professional services fees and expenses (including tax preparation) relating to the Fund and its activities.
- (c) The Manager shall bear all organizational costs, fees, and expenses incurred by or on behalf of the Manager or its Affiliates in connection with the formation and organization of the Fund and the Manager (including the definitive agreements related thereto), including legal and accounting fees and all expenses incident thereto.
- (d) The Fund shall bear all organizational fees and expenses incurred by or on behalf of the Manager or any of its Affiliates in connection with the formation, organization, operation and liquidation of any Liquidating Trust and any special purpose investment vehicles provided for in this Agreement.
- (e) The Fund shall bear all liquidation costs, fees and expenses incurred by the Manager (or its designee) in connection with the liquidation of the Fund or any series of the Fund, and Manager at the end of the Fund's and Manager's respective terms, including legal and accounting fees and expenses and the cost of insurance against contingent or unknown liabilities.
- (f) The Manager and/or its Affiliates shall bear all normal operating expenses incurred in connection with the management of the Fund, the Manager and its Affiliates, except for those expenses borne by the Fund as expressly set forth above and elsewhere herein. Such normal operating expenses to be borne by the Manager and/or its Affiliates shall include expenditures relating to the investigation and evaluation of potential investments for the Fund, as well as expenditures on account of salaries, wages, and other expenses of employees of the Manager and its Affiliates, overhead and rentals payable for space used by the Manager, its Affiliates and the Fund related to investment and regulatory activities.

- (g) Each of the Fund and the Manager (or its designee) agrees to reimburse the other as appropriate to give effect to the provisions of this Section 4.2 in the event that either such party pays an obligation that is properly the responsibility of the other. The Manager may waive reimbursement from the Fund, in part or in full and in its sole discretion, in the event that the Manager pays an obligation that would otherwise be the responsibility of the Fund.
- (h) The Manager may deduct a percentage of the amount invested by a Class A Member in the Fund to pay sales fees or charges, on a fully disclosed basis, to a broker-dealer, placement agent or other person based upon the Capital Contribution of such Class A Member introduced to the Fund by such broker-dealer, placement agent, or other person. Any such sales fees or charges would (i) be assessed against the referred Class A Member, (ii) not be a Capital Contribution of the Class A Member, and (iii) reduce the amount actually invested by such Class A Member in the Fund.
- (i) The Manager shall waive its right to reimbursement for Fund expenses paid by it (directly or through an affiliate other than the Fund) up to the amount of the total aggregate Management Fee paid to the Manager by the Fund. The Fund expense reimbursement waived by the Manager pursuant to this Section 4.2(i) will be allocated to each series Interest held each Member based on the portion of the Management Fee allocated to such Interest (taking into account any waivers of Management Fee amounts). For the avoidance of doubt, the Manager will continue to have a right to reimbursement for any Fund expenses paid by the Manager (directly or through an affiliate other than the Fund) allocable to any Member's Interest in any series in excess of the aggregate amount of Management Fee allocated to such Interest.

## SECTION 5 LIABILITY AND INDEMNIFICATION

### 5.1 Liability.

- (a) The Manager and its Affiliates shall not be liable to the Fund or the Members for any action or inaction in connection with the business and affairs of the Fund, unless such action or inaction is determined by a final, non-appealable court of competent jurisdiction to constitute gross negligence to the material detriment of the fund or criminal fraud by the Manager. It shall be conclusively presumed and established that the Manager acted in good faith if any action is taken, or not taken, by it on the advice of legal counsel or other independent outside consultants; provided, that the Manager did not act with gross negligence in the selection of such counsel or consultants.
- (b) No Member shall be personally liable for the expenses, liabilities, or obligations of the Fund. Notwithstanding the foregoing, each Member shall be required to pay (i) to the Fund, at such times and subject to the conditions set forth herein, all amounts that such Member has agreed to pay in respect of its Capital Contributions and to deliver such other amounts it is obligated to pay over to the Fund pursuant to this Agreement, (ii) such amounts as required by the Delaware LLC Act.
- (c) A failure to observe any formalities or requirements of this Agreement, the Certificate, or the Delaware LLC Act shall not be grounds for imposing personal liability on the Manager or any Member for any liability of the Fund.

- 5.2 **Indemnification.** The Fund will indemnify and hold harmless the Manager and its Affiliates from and against any and all claims, actions, demands, losses, costs, expenses (including attorneys' fees and other expenses of litigation), damages, penalties or interest, as a result of any claim or legal proceeding relating to any action or inaction by any of them in connection with the business and affairs of the Fund (including any judgment, settlement, reasonable attorneys' fees and other costs or expenses incurred in connection with the defense of any actual or threatened action or proceeding); **provided**, that the party against whom the claim is made or legal proceeding is directed has not been found liable of gross negligence to the material detriment of the fund or found guilty of criminal fraud, in either case as determined by a final non-appealable court of competent jurisdiction. Any indemnity under this Section 5.2 shall be paid from and to the extent of Fund assets only, and only to the extent that such indemnity does not violate applicable federal and state laws. The Fund shall, in the discretion of the Manager, advance amounts and/or pay expenses as incurred in connection with the indemnification obligation herein, including to the Manager and/or its Affiliates. In the event this indemnification obligation shall be deemed unenforceable, whether in whole or in part, such unenforceable portion shall be stricken or modified so as to give effect to this paragraph to the fullest extent permitted by law.
- 5.3 **Acting as an ERISA Fiduciary.** If, to the extent, and at such times as, any assets of the Fund are deemed to be "plan assets" within the meaning of ERISA of any Member that is an employee benefit plan governed by ERISA, the Manager shall be, and hereby acknowledges that it shall be considered to be, a fiduciary within the meaning of Section 3(21) of ERISA as to that Member. In such an event, or if any Affiliate of the Manager, is ever held to be a fiduciary of any Member, then, in accordance with Sections 405(b)(1), 405(c)(2) and 405(d) of ERISA, the fiduciary responsibilities of that person shall be limited to the person's duties in administering the business of the Fund, and the person shall not be responsible for any other duties to such Member, specifically including evaluating the initial or continued appropriateness of this investment in the Fund under Section 404(a)(1) of ERISA.
- 5.4 **Liability and Indemnification of Investment Managers and Sub-Advisers.** Sections 5.1, 5.2, and 5.3 shall also apply to (a) any person selected by the Manager pursuant to Section 3.4(b) to serve as the investment manager or sub-adviser with respect to some or all Fund assets, and (b) any person appointed to serve as the "partnership representative" pursuant to Section 3.4(l).

## **SECTION 6 MANAGER RESIGNATIONS, WITHDRAWALS AND TRANSFERS**

- 6.1 **Voluntary Withdrawals and Resignations.** The Manager shall not be permitted to voluntarily withdraw or resign as the manager of the Fund, except upon no less than 30 days' prior written notice to all Members or in connection with a transfer under Section 6.3.
- 6.2 **Involuntary Withdrawals.** In the event of an Involuntary Withdrawal, the Manager or the Manager's trustee, receiver or assignee shall have none of the rights and powers of a Manager hereunder, and shall have no authority to act on behalf of the Fund or have any voice in the management and operation of the Fund, except as provided in Section 15.2.
- 6.3 **Transfer of Interests Held by Manager.** The Manager shall have the right to transfer its Interests as the manager of the Fund to any other person, without the consent of Members. Upon receipt of such Interests, such Person shall be a manager of the Fund and the Manager shall cease to be a manager of the Fund.

- 6.4 **Appointment of Substitute Manager by Members.** In an event the Manager withdrawals, resigns or Involuntarily Withdraws as the manager of the Fund as set forth in Section 6.1 or Section 6.2, and no manager of the Fund remains, the Class A Members shall have the right, within 90 days after such event, by affirmative vote of a Majority of Interests of Class A Members voting collectively to appoint a substitute manager.
- 6.5 **Transferee/Substitute Manager Requirements.** The acceptance as a manager of the Fund of any person that has receive Interests pursuant to Section 6.3, or who has been appointed as a manager pursuant to Section 6.4, shall become effective only when such person has executed and acknowledged any and all instruments that are necessary or appropriate to effect such admission of such person, including the written acceptance and adoption by such person of the provisions of this Agreement and, if required by the Delaware LLC Act, an amendment of the Certificate. Any person that has received Interests pursuant to Section 6.3, upon executing and acknowledging any and all such instruments, shall assume the status of and shall have all of the rights, powers and obligations that the Manager possessed as manager prior to its withdrawal, resignation or Involuntary Withdrawal from the Fund.

## SECTION 7 MEMBER INTERESTS

- 7.1 **Authorized Member Interests.**
- (a) Except as provided in Section 7.1(b), the Fund is authorized to issue one or more series of Interests to which shall be allocated all profits and losses of the Fund relating to a Portfolio Interest. Each series of Interests shall comprise 2 classes, which shall be designated as “Class A Interests” of the specific series and “Class B Interests” of the specific series. At the time a series of Interests is authorized, the Manager shall determine the terms and conditions applicable to such series and each such class. The Manager shall have the power to issue the authorized Interests on the terms and conditions determined by the Manager as provided in the immediately preceding sentence without an amendment of this Agreement. References in this Agreement to Interests of a specific series include all classes of Interests of such series.
- (b) **Member's Suitability Requirements.** Class A Members of any series will be limited to persons who are (i) both Accredited Investors and Qualified Purchasers or (ii) who are Knowledgeable Employees or companies owned exclusively by Knowledgeable Employees or persons who acquire securities in accordance with Rule 3c-6 under the 1940 Act which were originally acquired by one or more Knowledgeable Employees. Only investors in the Class A Interests of a series who demonstrate to the satisfaction of the Manager that they have met those suitability standards in (i) or (ii) of this Section 7.1(b), as well as any the ability to afford a complete loss of their investment, and who have met all other conditions required by the Manager in its sole discretion, will be admitted as Class A Members of such series.
- 7.2 **Admission of Members.** Subject to Section 7.1(b), the Fund may admit a person as a Class A Member with respect to a specific series, provided, that such person has: (a) completed and executed a Subscription Agreement with respect to such series, and the Manager has accepted that Subscription Agreement with respect to such series on behalf of the Fund; (b) paid to the Fund its Capital Contribution with respect to such series as provided in Section 8.2; and (c) provided such documentation and other instruments relating to such

series as requested by the Manager. No person shall be a Class A Member unless and until the Manager consents to the admission of such person.

- 7.3 **Member Loans.** No Member shall be obligated to make any loan to the Fund.
- 7.4 **Rights of Members to Inspect Books, Records, and Fund Documents.** Upon reasonable advance written notice and during reasonable business hours, a Class A Member may inspect and copy, at the Class A Member's expense and solely for a purpose reasonably related to the Member's interest as a Class A Member, the records of the Fund required to be maintained pursuant to Section 18-305 of the Delaware LLC Act and any financial statements maintained by the Fund. Any such inspection must be in good faith without any intent to damage the Fund or any of its Class A Members in any manner. Copies of this Agreement and all amendments hereto shall be furnished to each Class A Member upon request, provided that the Manager may redact any portion of this Agreement or any amendment to conceal the name or names of any Class A Member.
- 7.5 **Restriction on Other Activities.** Class A Members may engage and hold interests in business ventures of every kind and description for their own accounts, including business ventures which are, directly or indirectly, in competition with the Fund and whether or not the Fund or any of the Class A Members also has an interest therein. Neither the Fund nor any of the Class A Members shall have any rights in such independent business ventures by virtue of this Agreement.
- 7.6 **Rights as to Dissolution.** The Class A Members shall have no right or power to cause the dissolution and winding up of the Fund by court decree or otherwise or to withdraw or reduce their Capital Contributions, except as set forth in the Certificate and this Agreement. No Class A Member shall have the right to bring an action for partition against the Fund and each Class A Member hereby waives any right to partition of the Fund's property.
- 7.7 **Consent by Class A Members in Lieu of Meeting.** Any action required by this Agreement or the Delaware LLC Act to be taken at any regular or special meeting of the Class A Members, whether voting as a class, series, or collectively, may be taken without a meeting, without prior notice and without a vote, if a consent or consents in writing, setting forth the action so taken, shall be signed by Class A Members holding a Majority in Interests of the such class, series, or collectively, or otherwise as specified in this Agreement.
- 7.8 **Constructive Consent by Members.** In the event the Manager requires the consent of one or more Class A Members of the Fund, whether as a Class A Member of a class, series, or collectively, in order to take action (including approving amendments to this Agreement), and written notice of such action is mailed to any such Class A Members (certified mail, return receipt requested), those Class A Members not affirmatively objecting in writing within the time specified in such notice (which time shall be not less than 15 days) shall be deemed to have consented to the proposed action set forth in the Manager's notice.

## SECTION 8 CAPITAL ACCOUNTS & CAPITAL CONTRIBUTIONS

- 8.1 **Capital Accounts.**
- (a) The Fund shall establish and maintain for each Member an individual capital account with respect to each series of Interests held by the Member (each, a

“Capital Account”) for the purpose of allocating the Net Profits and Net Losses as provided in this Agreement.

- (b) Each Member’s Capital Account with respect to a specific series shall consist of the Member’s original Capital Contribution with respect to such series, if any, and (a) increased by any additional Capital Contributions with respect to such series, the Member’s share of any income or gain with respect to such series that is allocated to the Member pursuant to this Agreement, and the amount of any Fund liabilities with respect to such series that are assumed by the Member or that are secured by any Fund property distributed to the Member, and (b) decreased by the amount of any distributions to or withdrawals by the Member with respect to such series, the Member’s share of expense or loss with respect to such series that is allocated to the Member pursuant to this Agreement, and the amount of any of the Member’s liabilities that are assumed by the Fund or that are secured by any property contributed by the Member to the Fund with respect to such series.
- (c) This Section 8.1 and the other provisions of this Agreement relating to the maintenance of Capital Accounts are intended to comply with Treasury Regulation Section 1.704-1(b)(2)(iv), and shall be interpreted and applied in a manner consistent with such Treasury Regulations. In the event the Manager shall determine that it is prudent to modify the manner in which the Capital Accounts, or any debits or credits thereto, are computed in order to comply with such Treasury Regulations, the Manager may make such modification, provided that it is not likely to have more than an insignificant effect on the total amounts distributable to any Member pursuant to this Agreement.

## 8.2 Capital Contributions.

- (a) Class A Interests.
  - (i) Class A Interests of each series will be issued to investor Members in exchange for their Capital Contributions.
  - (ii) All Capital Contributions shall be made in the form of a wire transfer, bank check, cash, other immediately available funds, or other assets explicitly accepted by the Manager, and shall be made by a Member concurrently with the execution of the Member’s Subscription Agreement relating to the Capital Contribution. If a Class A Member of a specific series fails to make the entire Capital Contributions specified in the Subscription Agreement relating to such series and Counterpart Signature Page within the time prescribed therein, no Interest of such series shall be issued to such prospective Class A Member, and such prospective Class A Member shall indemnify and hold the Fund and the other Members harmless from any loss, cost, or expense, including reasonable attorney fees caused by the failure to make the initial Capital Contribution.
  - (iii) The Manager shall have the right, but not the obligation, to contribute capital to the Fund with respect to any series, through the purchase of Class A Interests of such series, in the form of a Capital Contribution relating to such series.
  - (iv) Holders of any Class A Interest shall be entitled to vote only on such matters as expressly provided in this Agreement.

- (b) **Class B Interests.** Class B Interests of a series will be issued to the Manager as partial consideration for its services as manager of the Fund. The Manager will not be required to make any capital contribution to the Fund with respect to the Class B Interests, and its initial Capital Account balance with respect to the Class B Interests of the initial series of Interests will be zero.

**8.3 Rights Regarding Capital Contributions.**

- (a) No Member shall be entitled to interest on any Capital Contribution, and no Member shall have the right to withdraw or to demand the return of all or any part of its Capital Contribution, except as specifically provided in this Agreement.
- (b) No Class A Member of Interests of a specific series shall have any preemptive or other rights to Interests of any class of any other series.
- (c) No Member shall be required to make any additional Capital Contribution otherwise as provided in the Member's Subscription Agreement.
- (d) Under circumstances requiring a return of any Capital Contribution, no Member shall have the right to receive property, other than cash, except as may be specifically provided herein.
- (e) No Member shall have personal liability for the repayment of the Capital Contribution of any Member or any obligation to make loans or advances to the Fund, including restoration of a deficit Capital Account as provided in Section 8.5.

**8.4 Book-Up of Fund Assets.** The book value of all Fund assets will be adjusted, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(f), to equal their respective gross fair market values, as determined by the Manager, as of the following times: (i) the acquisition of an additional interest in the Fund by any new or existing Member in exchange for more than a *de minimis* Capital Contribution; (ii) the distribution by the Fund to a Member of more than a *de minimis* amount of money or Fund property as consideration for an interest in the Fund; and (iii) the "liquidation" of the Fund within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g).

**8.5 Deficit Capital Accounts.** Notwithstanding anything to the contrary contained in this Agreement, and notwithstanding any custom or rule of law to the contrary, to the extent that any Member's Capital Account has a deficit balance upon the "liquidation" of the Fund within the meaning of Treasury Regulations Section 1.704-1(b)(2)(ii)(g), such deficit shall not be an asset of the Fund and such Member shall not be obligated to contribute such amount to the Fund to bring the balance of such Member's Capital Account to zero.

## **SECTION 9 ALLOCATIONS**

**9.1 Allocations of Net Profits and Net Losses.** The Net Profits and Net Losses of the Fund for each Fiscal Year shall be allocated among the Member's Capital Accounts *pro rata* as provided in this Section 9.1, subject to the requirements of Section 9.2 and 9.3.

- (a) Each Series Allocated Net Profits shall be allocated to the Members of such series in the following order and priority:

- (i) First, 100 percent to the Class A Members of such series pro rata in proportion to their respective portions of their Class A Interests of such series held, in an amount equal to
    - (A) the cumulative Series Allocated Net Losses with respect to such series allocated pursuant to Section 9.1(b) for all prior Fiscal Years; minus
    - (B) the cumulative Series Allocated Net Profits of such series allocated to the Class A Members of such series pursuant to this Section 9.1(a)(i) for all prior Fiscal Years; and
  - (ii) Second, the remainder, if any, will be allocated to the Members of such series as follows:
    - (A) 80 percent shall be allocated to the Class A Members of such series, pro rata in proportion to their respective Class A Interests held in such series; and
    - (B) 20 percent shall be allocated to the Class B Member of such series.
- (b) Each Series Allocated Net Losses shall be allocated to the Members of such series in the following order and priority:
- (i) First,
    - (A) 80 percent shall be allocated to the Class A Members of such series, pro rata in proportion to their respective Class A Interests held in such series, and
    - (B) 20 percent shall be allocated to the Class B Member of such series to the extent of any prior Series Allocated Net Profits allocated pursuant to Section 9.1(a)(ii)(B); and
  - (ii) Second, 100 percent to the Class A Members of such series pro rata in proportion to their respective portions of their Class A Interests of such series held.

## **9.2 Special Capital Account Allocations.**

- (a) Tax Allocations.
  - (i) Subject to Section 9.2(a)(ii), in each Fiscal Year, items of income, deduction, gain, loss or credit that are recognized for income tax purposes shall be allocated among the Members in a manner that reflects equitably amounts credited to or debited against the Capital Account of each partner, whether in such Fiscal Year or in prior Fiscal Years. To this end, the Fund shall establish and maintain records that show the extent to which the Capital Account of each Member comprises, as of the last day of each Fiscal Year, amounts that have not been reflected in the taxable income of such Member. To the extent deemed by the Manager to be feasible and equitable, taxable income and gains in each Fiscal Year shall be allocated among the Members who have enjoyed the related credits, and items of deduction, loss and credit in each Fiscal Year shall be

allocated among the Members who have borne the burden of the related debits.

- (ii) Notwithstanding any of the foregoing provisions to the contrary, if a Member withdraws all of its capital during a Fiscal Year, the Manager may elect to make allocations of taxable income and loss as follows:
  - (A) Taxable income may first be allocated to each Member who has withdrawn or been distributed all of such Member's Capital Account in that Fiscal Year, to the extent that such withdrawal or distribution exceeds such Member's adjusted tax basis in such Member's Interest in the Fund immediately prior to such withdrawal or distribution. If more than one Capital Account has been so withdrawn or distributed in full, such allocations, if made, shall be made to the extent of, and in proportion to, such differences;
  - (B) Taxable loss may first be allocated to each Member who has withdrawn or been distributed all of such Member's Capital Account in that Fiscal Year, to the extent that such Member's adjusted tax basis in such Member's Interest in the Fund exceeds that Capital Account immediately prior to such withdrawal or distribution. If more than one Capital Account has been so withdrawn or distributed, such allocations, if made, shall be made to the extent of and in proportion to such differences; and
  - (C) Thereafter, taxable income and loss may be allocated as provided in Section 9.2(a)(i).
- (iii) Any elections or other decisions relating to such allocations, or computations or taxable income, shall be made by the Manager in any manner that reasonably reflects the purpose and intention of this Agreement and shall be binding on all Members. Allocations pursuant to this Section 9.2(b) are solely for purposes of federal, state and local taxes and shall not affect, or in any way be taken into account in computing, any Capital Account or share of Net Profits, Net Losses or other items of any Member, or distributions to any Member, pursuant to any provision of this Agreement.

(b) **Other Allocation Rules.**

- (i) If any amount claimed by the Fund to constitute a deductible expense in any Fiscal Year is treated by any federal, state or local taxing authority as a payment made to a Member in such Member's capacity as a member of the Fund for income tax purposes, with regard to such authority, items of income and gain of the Fund for such Fiscal Year shall first be allocated to such Member to the extent of such payment.
- (ii) All matters concerning the allocation of profits, gains and losses among the Members (including the taxes thereon) and accounting procedures not expressly provided for by the terms of this Agreement shall be determined by the Manager in its sole discretion, and the Manager is expressly permitted to use the aggregate method of apportioning taxable gain and loss under Code section 704(b). The Manager's determination of the foregoing matters shall be final and conclusive as to all parties.

9.3     **Withholding.**

- (a) Any taxes, fees or other charges that the Fund is required to withhold under applicable law with respect to any Member (each, a “Withholding Payment”) shall be withheld by the Fund (and paid to the appropriate government authority) and shall be deducted from the Capital Account of such Member as of the last day of the Fiscal Year (or earlier if the Member withdraws) with respect to which amounts are required to be withheld. Each Member shall indemnify and hold harmless the Fund from and against any and all liability with respect to any Withholding Payments required on behalf of, or with respect to, such Member. A Member’s obligation to so indemnify shall survive the Transfer of such Member’s Interest in the Fund, and the liquidation and dissolution of the Fund or the Member’s Interest therein, and the Fund may pursue and enforce all rights and remedies it may have against each such Member under this Section 9.3.
- (b) Any imputed underpayment within the meaning of Code section 6225 (or any similar provision under state or local law) paid (or payable) by the Fund as a result of an adjustment with respect to any Fund item, including any interest or penalties with respect to any such adjustment (collectively, an “Imputed Underpayment Amount”), shall be treated as if it were paid by the Fund as a Withholding Payment with respect to the appropriate Members. The Manager shall reasonably determine the portion of an Imputed Underpayment Amount attributable to each Member or former Member. The portion of the Imputed Underpayment Amount that the Manager attributes to a Member shall be treated as a Withholding Payment with respect to such Member. The portion of the Imputed Underpayment Amount that the Manager attributes to a former Member of the Fund shall be treated as a Withholding Payment with respect to both such former Member and such former Member’s transferee(s) or assignee(s), as applicable, and the Manager may in its discretion exercise the Fund’s rights pursuant to this Section 9.3 in respect of either or both of the former Member and its transferee or assignee. Imputed Underpayment Amounts treated as Withholding Payments also shall include any imputed underpayment within the meaning of Code section 6225 (or any similar provision under state or local law) paid (or payable) by any entity treated as a partnership for U.S. federal income tax purposes in which the Fund holds (or has held) a direct or indirect interest other than through entities treated as corporations for U.S. federal income tax purposes to the extent that the Fund bears the economic burden of such amounts, whether by law or agreement.

9.4     **Transfer or Issuance of Interests During Fiscal Year.** In the case of the Transfer of a Member’s Interests, the addition of an Additional Member or the issuance of additional Interests at any time other than the end of a Fiscal Year, the distributive share of the various items of income, gain, loss, deduction, credit or allowance of the Fund shall be allocated among the Members to take into account the varying interests of the Members during the Fiscal Year in accordance with Code section 706, using such method as is determined by the Manager.

## **SECTION 10 WITHDRAWALS**

10.1     **Withdrawals, Generally.**

- (a) Interest. No interest shall be paid to any Member on account of its interest in the capital of or on account of its investment in the Fund.

- (b) Withdrawals by the Members. No Member may withdraw any amount from its Capital Account unless such withdrawal is made pursuant to Section 11, Section 15, or with the prior written consent of the Manager. The Manager may permit a Member to withdraw some or all of the amount of its Capital Account balance at any time and/or under any conditions, or it may deny any request of a Member to withdraw, for any reason or no reason in its sole discretion.
- 10.2 **Required Withdrawal.** The Manager may (a) terminate the Interest of any Member with respect to any series or all series of the Fund at the end of any calendar month, upon at least 10 days' prior written notice and (b) terminate the Interest of any Member with respect to any series or all series of the Fund at any time upon at least 5 days' prior written notice, if, among other reasons, the Manager determines that the continued participation of such Member in the Fund might cause the Fund, the Manager, or any Member to violate any law, to cause the Fund to be an "investment company" for purposes of the 1940 Act, or if any litigation is commenced or threatened against the Fund or any Member arising out of, or relating to, the participation of such Member in the Fund.

## SECTION 11 DISTRIBUTIONS & VALUATION

### 11.1 Distributions Generally.

- (a) Determinations and Timing of Distributions. Upon the Fund's receipt of cash proceeds and other cash receipts (other than Capital Contributions), the Manager shall determine in its sole discretion whether the Fund has (i) cash in an amount sufficient to satisfy (A) all of the Fund's existing and anticipated obligations to its creditors and (B) the amount of reserves the Manager has determined in its sole discretion are appropriate or necessary in order for the Fund to accomplish the purpose of the Fund, and/or (ii) Financial Instruments which it would be in the best interests of the Fund and the Members to distribute to Members ("Distributable Financial Instruments"). If, prior to the dissolution of the Fund, the Manager determines that the Fund has cash in an amount sufficient as provided in the immediately preceding sentence ("Distributable Cash") and/or Distributable Financial Instruments, the Manager shall further determine the amount of such Distributable Cash and the portion of such Distributable Financial Instruments that are attributable to each series, and then cause the Fund to distribute such Distributable Cash and/or Distributable Financial Instruments to each Member of such series within a commercially reasonable period in the manner described in Section 11.1(b).
- (b) Apportionment of Distributions. Except as provided in this Section 11, each distribution to each series made pursuant to Section 11.1(a) shall be apportioned among the Members of such series in proportion to the aggregate Capital Account balances of such Members that are attributable to the series.
- (c) Assignment of Right to Receive Distributions.
- (i) All distributions shall be made only to the Member who, according to the books and records of the Fund, is the holder of record of the Interests in respect of which such distributions are made on the actual date of distribution. Neither the Fund nor the Manager shall incur any liability for making distributions in accordance with this Section 11.1.

- (ii) Notwithstanding the above, a Class B Member shall have the sole right to assign a portion of the distributions (and associated allocations under Section 9.1) attributable to the Class B Interests to another Member. Any such assignment of the allocations and distributions attributable to the Class B Interests shall be set forth in the Member's signature page hereto ([Exhibit A](#)) or via such other writing acceptable to Manager and the assignee Member. If any such assignment is made under this Section all allocations and distributions under this Section 11 with respect to the Class B Interests shall thereafter be made to account for any such assignment.
- 11.2 **Tax Distributions.** Notwithstanding Section 11.1 to the contrary and prior to any distribution under Section 11.1(a), the Manager may, in its sole and absolute discretion, cause the Fund to distribute Distributable Cash to any Member or Members (including itself) to the extent the Manager determines that amounts actually distributed to such Members are not sufficient for such person (or any of its direct or indirect beneficial owners) to pay when due any income tax or capital gains tax imposed on it by reason of the allocation of taxable income or taxable capital gains pursuant to this Agreement. The maximum amount of any such distribution to any Member within one fiscal year will be the sum of: (i) the product of (A) the Fund's net taxable ordinary income and net taxable short-term capital gain allocated pursuant to Section 9 to such Member for such ended Fiscal Year multiplied by (B) the highest marginal U.S. federal (and New York state) ordinary income tax rate applicable to individuals plus (ii) the product of (A) the Fund's net taxable long-term capital gain allocated pursuant to Section 9 to such Member for such ended Fiscal Year multiplied by (B) the highest U.S. federal (and New York state) long-term capital gains tax rate applicable to individuals minus (iii) amounts that have already been distributed to such Member pursuant to this Section 11.2 for such Fiscal Year. No such distribution shall be made to the extent that the Manager determines, in its sole discretion, that funds are not reasonably available for such distribution by virtue of applicable law, contractual obligation or current or future needs of the Fund. Distributions made pursuant to this Section 11.2 shall be treated as an advance and shall be applied against amounts otherwise distributable to the Members pursuant to Sections 11.1(b) or 15.2(b).
- 11.3 **Other Distribution Rules.**
- (a) Distributable Financial Instruments that are Non-Marketable Securities shall be distributed in a manner consistent with Section 15.5. All other Financial Instruments distributed in kind shall be subject to such conditions and restrictions as the Manager determines are legally required.
  - (b) Notwithstanding anything to the contrary contained in this Agreement, the Fund, and the Manager on behalf of the Fund, shall not be required to make a distribution to any Member on account of its interest in the Fund if such distribution would result in a deficit balance in such Member's Capital Account or result in the violation of the Delaware LLC Act or any other applicable law. In the event that any distribution is prohibited by the preceding sentence, subsequent distributions shall be adjusted (to the extent that any such adjustment would not itself give rise to a violation of such sentence) so that the aggregate amount distributed to each Member in the original and subsequent distributions shall be, to the extent possible, equal to the aggregate amounts that would have been distributed to such Member had adjustments pursuant to this Section 11.3(d) not occurred;
  - (c) In the event that any distribution to one or more Members is made in error, the Manager shall be authorized to adjust future distributions, or to recall amounts previously distributed, to the Members in a manner so as to cause the cumulative

net distributions made to each Member to be consistent with the cumulative amount that such Member would have received had no such error been made; and

- (d) Notwithstanding Section 11.1(b) to the contrary, distributions of proceeds of liquidation shall be made to the Members pursuant to Section 15.2.

#### 11.4 Determinations of Fund Asset/Liability Values

- (a) The value of the Fund's assets and liabilities shall be determined on an accrual basis of accounting in accordance with GAAP, consistently applied (except that organizational and initial offering expenses of the Fund may, in the Manager's discretion, be amortized for up to 60 months from the date the Fund commences operations), and the following:
- (i) No value shall be assigned to goodwill;
  - (ii) All accrued debts and liabilities shall be treated as liabilities, including all amounts payable to the Manager that are due or otherwise payable but not yet paid, any allowance for the Fund's estimated annual audit and legal fees and other operating expenses and any contingencies for which reserves are required;
  - (iii) Any accrued allocations of Net Profits that have not yet been reallocated to the Manager's Capital Account shall be treated as liabilities;
  - (iv) Financial Instruments (other than options) that are listed on a national securities, commodities or other exchange, or over-the-counter instruments listed on NASDAQ, shall be valued at their last sales prices on such date or, if no sales occurred on such date, at the "bid" price for a long position and the "ask" price for a short position on such date;
  - (v) Options that are listed on a securities or commodities exchange shall be valued at their last sales prices on the date of determination on the largest securities or commodities exchange (by trading volume) on which such options shall have traded on such date; provided that, if the last sales prices of such options do not fall between the last "bid" and "ask" prices for such options on such date, then such options shall be valued at the midpoint between the last "bid" and "ask" prices for such options on such date;
  - (vi) Financial Instruments that are not listed on an exchange or quoted on an over-the-counter market, but for which there are available quotations, shall be valued based upon quotations obtained from market makers, dealers or pricing services;
  - (vii) Financial Instruments contributed to the Fund as subscription proceeds shall be treated as if purchased by the Fund at market value on the date of contribution, and Financial Instruments distributed from the Fund as withdrawal proceeds shall be treated as if sold by the Fund at market value on the date of distribution; and
  - (viii) Any Fund asset that has no public market, investments in other asset classes, and all other assets of the Fund for which a valuation methodology is not specified in this Agreement, will be valued by the Manager in a manner determined in good faith to reflect its fair value.

- (b) If the Manager determines, in its sole discretion, that the valuation of any asset pursuant to the foregoing does not fairly represent the amount that the Fund would receive if it were to dispose of the asset in an arm's length transaction to meet anticipated withdrawals, the Manager will value such asset using an amount that it determines in good faith to reflect the asset's fair value.
  - (c) In connection with the determination of the value of any Fund asset, the Manager may consult with and is entitled to rely upon the advice of the Fund's brokers and any other third parties deemed appropriate by the Manager. In no event and under no circumstances shall the Manager, the Fund's brokers or such other third parties incur any individual liability or responsibility for any determination made or other action taken or omitted by them in good faith.
  - (d) All determinations of value of any asset or liability pursuant to this Agreement, as well as determinations of the net asset value of the Fund or any series of Interests thereof, are conclusive and binding as to all Members.
- 11.5 **Members' Obligation to Repay or Restore.** Except as required by the Delaware LLC Act, Section 15.4, or as otherwise expressly set forth in this Agreement, no Member shall be obligated at any time to repay or restore to the Fund all or any part of any distribution made to it from the Fund in accordance with the terms of this Agreement. If the Delaware LLC Act requires that a Member repay or restore to the Fund any distribution received by such Member from the Fund, the Members hereby agree that such repayment or restoration shall not be accompanied by any interest payments.

## **SECTION 12 TRANSFERS OF INTERESTS**

### **12.1 Restrictions on Transfer of Interests of Class A Members**

- (a) Except for transfers by will or intestate succession or by operation of law, no Class A Member may Transfer, in whole or in part, such Class A Member's Interest without the consent of the Manager, which may be given or withheld in the sole and absolute discretion of the Manager and subject to any condition. Notwithstanding the foregoing, any purported Transfer of a Class A Member's Interests that would cause the termination of the Fund for federal income tax purposes shall be void ab initio.
- (b) In connection with any request for the consent of the Manager to a Transfer of a Class A Member's Interests, the Manager may request from counsel for the Fund its written opinion (the expenses of which may be allocated to the relevant Class A Member) as to whether proposed Transfer:
  - (i) Would cause the termination of the Fund for federal income tax purposes and/or
  - (ii) May be effected without:
    - (A) Registration of the Interest being made under the Securities Act;
    - (B) Violating any applicable state securities or "Blue Sky" law (including investment suitability standards) or the laws of any other jurisdiction;

- (C) The Fund becoming subject to the 1940 Act; or
- (D) Violating the Delaware LLC Act.

The Manager shall be entitled to rely conclusively upon such opinion or opinions in determining whether consent to such Transfer should be given.

- (c) In no event shall the Interest of a Class A Member or any portion thereof be Transferred to a minor or incompetent, unless by will or intestate succession.
- (d) Any Imputed Underpayment Amount that is properly allocable to a transferor of an interest, as reasonably determined by the Manager, shall be treated as a Withholding Payment with respect to the applicable transferee in accordance with Section 9.4. Furthermore, each Member hereby agrees that, following any Transfer of such Member's interest, such Member shall (i) continue to comply with the provisions of Section 16 notwithstanding such Transfer and (ii) indemnify and hold harmless the Fund and the Manager from and against any and all liability with respect to the transferee's Withholding Payments resulting from Imputed Underpayment Amounts attributable to the transferor to the extent that the transferee fails to do so..

## **12.2 Admission of Substitute Class A Member**

- (a) Subject to the provisions of this Section 12, an assignee of the Interest of a Member (which shall include a Substitute Member) only upon the satisfactory completion of the following:
  - (i) The assignee shall have completed and executed such documents or instruments as the Manager may require in its sole and absolute discretion in order to effect the admission of such person as a Substitute Member;
  - (ii) The assignee shall have (A) accepted and agreed to be bound by the terms and provisions of this Agreement (as it may be amended from time to time), (B) expressly assumed all of the obligations of the assignor Class A Member hereunder, (C) represented to the Manager that (I) the assignee's acquisition of the Interest is made as a principal, for the assignee's own account, for investment purposes only and not with a view to the resale or distribution of such Interest, and (II) the assignee meets the suitability requirements for investing in the Fund, and (D) covenanted that the assignee will not Transfer such Interest or any fraction thereof to anyone in violation of this Agreement;
  - (iii) The assignee shall have complied with all applicable governmental rules and regulations, if any;
  - (iv) All costs and expenses incurred by the Fund and the Manager in connection with this Section 12.2 shall be paid by the person or entity seeking to become a Substitute Member or the transferor Class A Member; and
  - (v) The Manager has consented to the admission of the assignee as a Substitute Member, as evidenced by a written document executed by the Manager.

## **12.3 Rights of Assignee of Interest**

- (a) Subject to the provisions of Section 12.1, and except as required by operation of law, the Fund shall not be obligated for any purposes whatsoever to recognize the assignment by any Class A Member of such Class A Member's Interest until the Fund has received notice thereof.
  - (b) Any person or entity who is the assignee of all or any portion of the Interest of a Class A Member, but who has not become a Substitute Member, and desires to make a further disposition of such Interest, shall be subject to all the provisions of this Section 12 to the same extent and in the same manner as any Class A Member desiring to make a disposition of such Class A Member's Interest.
- 12.4 **Effect of Bankruptcy, Death or Incompetence of a Class A Member.** The bankruptcy of a Class A Member or an adjudication that a Class A Member is incompetent (which term shall include, but not be limited to, insanity), shall not cause the termination or dissolution of the Fund and the business of the Fund shall continue. If a Class A Member becomes bankrupt, the trustee or receiver of such Class A Member's estate or, if a Class A Member dies, such Class A Member's executor, administrator or trustee, or, if such Class A Member is adjudicated incompetent, such Class A Member's committee, guardian or conservator, shall have the rights of such Class A Member for the purposes of settling or managing such Class A Member's estate or property and such power as the bankrupt, deceased or incompetent Class A Member possessed to dispose of all or any part of such Class A Member's Interest and to join with any assignee in satisfying conditions precedent to the admission of the assignee as a Substitute Member.
- 12.5 **Attachment by Creditors.** If an Interest is subjected to attachment by a creditor, or is assigned for the benefit of any creditor, the Interest obtained by such creditor shall be only that of an assignee, and in no event shall such creditor have the rights of a Class A Member.
- 12.6 **Assignee.** Subject to Section 12.3(b), if a Class A Member Transfers all or a portion of such Class A Member's Interest, involuntarily, by operation of law or voluntarily, without the consent required by this Section 12, the transferee or assignee shall: (i) be entitled only to receive that proportion of profit and loss, and any distribution of Fund assets, attributable to the Interest acquired by reason of such disposition from and after the effective date of such disposition, and only upon written notification of same to the Manager; and (ii) have no other rights as a Class A Member unless admitted as a Substitute Member in accordance with the terms of this Agreement.

## SECTION 13 REPRESENTATIONS, WARRANTIES AND COVENANTS

- 13.1 **Class A Members' Representations and Warranties.** Each Class A Member represents and warrants to the Fund, the Manager, every Class B Member, and to every other Class A Member as follows:
- (a) There is no misrepresentation by the Class A Member contained in the Subscription Agreement and the forms attached thereto completed by such Class A Member.
  - (b) If such Class A Member is a corporation, partnership, limited liability company, trust or other entity, that the officer (or other signatory) signing on its behalf has been duly authorized to execute and deliver this Agreement and the Certificate.

- (c) Its interest in the Fund is being acquired for investment, and not with a view to the sale or distribution of any part thereof, and that it has no present intention of selling, granting participation in or otherwise distributing the same;
  - (d) It understands that its interest in the Fund has not been registered under the Securities Act and that any transfer or other disposition of the interest may not be made without registration under the Securities Act or pursuant to an applicable exemption therefrom;
  - (e) It is (i) an Accredited Investor and a Qualified Purchaser or (ii) a Knowledgeable Employee or a company owned exclusively by Knowledgeable Employees or a person who acquires securities in accordance with Rule 3c-6 under the 1940 Act which were originally acquired by one or more Knowledgeable Employees; and
  - (f) It does not have any contract, undertaking, agreement or arrangement with any person to sell, transfer or grant participations to such person, or to any third person, with respect to its interest in the Fund.
- 13.2 **Class A Member's Covenants.** Each Class A Member covenants to the Fund and the Manager that he or she will:
- (a) At the time such Class A Member is admitted to the Fund by the Manager, promptly execute all relevant certificates and other documents, as the Manager shall request;
  - (b) Promptly, upon request by the Manager, provide to the Manager all financial data, documents, reports, certifications or other information necessary or appropriate to enable the Fund to apply for and obtain an exemption from the registration provisions of applicable law and any other information required by governmental agencies having jurisdiction over the Fund; and
  - (c) Comply with the requirements and provisions of the Delaware LLC Act, which he or she acknowledges shall govern the rights and liabilities of the Class A Members, except as otherwise provided in this Agreement.

## **SECTION 14 SPECIAL POWER OF ATTORNEY**

- 14.1 **Execution and Consent.** Each Member hereby irrevocably constitutes and appoints the Special Attorney as the attorney in fact for such Member with power and authority to act in the Member's name and on the Member's behalf to execute, acknowledge, swear to and file documents and instruments necessary or appropriate to the conduct of the Fund's business, which shall include, but not be limited to, the following:
- (a) The Certificate and this Agreement, as well as amendments thereto as required by the laws of any state;
  - (b) Any other certificates, instruments and documents, including fictitious name certificates, as may be required by, or may be appropriate under, the laws of any state; and
  - (c) Any documents that may be required to effect the continuation of the Fund, the admission of an Substitute Member, the withdrawal of a Member, or the dissolution and termination of the Fund, provided that such continuation, admission, withdrawal or dissolution and termination are in accordance with the terms of the Certificate and this Agreement.

14.2 Procedural Aspects. The power of attorney granted by each Member to the Special Attorney:

- (a) Is a Special Power of Attorney, coupled with an interest, and is accordingly irrevocable;
- (b) May be exercised by the Special Attorney for each Member by listing all of the Members executing any instrument with a single signature of such Special Attorney acting as attorney in fact for all of them; and
- (c) Shall survive the assignment by a Member of the whole or any portion of such Member's Interest; provided that where the assignee has been approved in accordance with the provisions of this Agreement for admission to the Fund as a Substitute Member, the Power of Attorney shall survive such assignment for the sole purpose of enabling the Special Attorney to execute, acknowledge and file any instrument necessary to effect such substitution.

## SECTION 15 DISSOLUTION AND LIQUIDATION OF THE FUND

15.1 Termination of the Fund or a Series.

- (a) Subject to the Delaware LLC Act, the Fund shall terminate, and the affairs of the Fund shall be wound up upon the earlier of:
  - (i) The election of termination by the Manager in the event that substantially all Fund assets have been distributed to the Members in accordance with this Agreement;
  - (ii) 90 calendar days after no manager remains due to the withdrawal, bankruptcy or dissolution of the Manager, unless a Majority in Interest of the Class A Members voting collectively elects to continue the Fund within such 90-calendar day period;
  - (iii) At any time upon the election of a Majority in Interest of the Class A Members voting collectively with the consent of the Manager;
  - (iv) At any time there are no Class A Members, unless the Fund is continued in accordance with the Delaware LLC Act;
  - (v) Upon the occurrence of any event that would cause the dissolution of the Fund prior to the expiration of the Fund's term as specifically provided by the Delaware LLC Act.
- (b) In the event that the Fund is terminated pursuant to Section 15.1(a)(ii), a Majority in Interest of the Class A Members voting collectively shall elect one or more persons to serve as liquidators to manage the liquidation of the Fund (which liquidation shall be conducted in the manner described in Sections 15.2, 15.3, 15.4, 15.5, and 15.6).
- (c) The Manager, in its sole discretion, may terminate any series of the Fund at any time. Any series of the Fund so terminated shall not cause any other series to terminate. If the Manager terminates any series of the Fund, the Manager may

deem any Member of that series whose Capital Account balance is zero or less than zero to have ceased to be a Member as of the date such Capital Account balance became zero or less than zero.

**15.2 Winding Up Procedures.**

- (a) Promptly upon the termination of the Fund or series, the affairs of the Fund or series, as the case may be, shall be wound up and the Fund or series liquidated. Net Profits or Net Losses attributable to the Fund or such series and any other items of income or loss realized during the winding up period shall be allocated to the Member's Capital Accounts in accordance with the provisions of Section 9.
- (b) Distributions during the winding up period may be made in cash or in kind or partly in cash and partly in kind. The Manager or the liquidator shall use its best judgment as to the most advantageous time for the Fund to sell Financial Instruments or to make distributions in kind. All cash and each Financial Instrument distributed in kind after the date of dissolution of the Fund or series shall be distributed in accordance with Section 15.5, unless such distribution would result in a violation of a law or regulation applicable to a Class A Member, in which event, upon receipt by the Manager of notice to such effect, such Class A Member may designate a different entity to receive the distribution, or designate, subject to the approval of the Manager, an alternative distribution procedure (provided such alternative distribution procedure does not prejudice any of the other Members). Each Financial Instrument so distributed shall be subject to reasonable conditions and restrictions necessary or advisable, as determined in the reasonable discretion of the Manager or the liquidator, in order to preserve the value of such Security or for legal reasons.

**15.3 Order of Payments in Liquidation.** The assets of the Fund or series shall be distributed in final liquidation of the Fund or series in the following order:

- (a) To the creditors of the Fund, or in the case of a liquidation of a series, to the creditors of the Fund with respect to such series, other than Members, in the order of priority established by law, either by payment or by establishment of reserves;
- (b) To the Members, or in the case of a liquidation of a series, to the Members of such series, in repayment of any loans made to, or other debts owed by, the Fund to such Members; and
- (c) The balance, if any, to the Members and the Manager in accordance with Section 11.1.

Notwithstanding the foregoing, prior to final liquidation of the Fund, the Manager shall contribute to the capital of the Fund the amount, if any, described in Section 15.4, which amount, if any, shall be distributed to the Class A Members in accordance with Section 15.4.

**15.4 Return of Excess Distributions.**

- (a) In connection with the final liquidating distribution of the Fund, or at any earlier time determined by the Manager in its sole and absolute discretion, the Manager, in its capacity as the Class B Member, shall contribute to the Fund, in cash, an amount for each series equal to the lesser of (i) the Excess Performance Allocation Distributions for such series and (ii) the After-Tax Performance Allocation Amount for such series. Any amount contributed by the Manager under this Section 15.4(a)

with respect to any series shall be promptly distributed by the Fund to the Class A Members of such series.

- (b) **"Excess Performance Allocation Distributions"** for a series of the Fund means
    - (i) the Performance Allocation Distribution Amount attributable to such series; minus
    - (ii) the amount that would otherwise have been distributable to the Manager as the Class B Member with respect to such series if the aggregate amount of all distributions made over the Fund's term had instead been made as a single distribution upon the liquidation of the Fund under this Section 15.
  - (c) **"After-Tax Performance Allocation Distribution Amount"** for a series means the Performance Allocation Distribution Amount of such series, minus the greater of
    - (i) taxes paid or payable by the partners of the Manager with respect thereto or
    - (ii) the aggregate amount distributed to the Manager as the Class B Member with respect to such series in the Fund pursuant to Section 11.2.
  - (d) **"Performance Allocation Distribution Amount"** associated with a series shall mean the aggregate amount of distributions received by the Manager in its capacity as the Class B Member pursuant to Section 11.1(a) attributable to such series.
- 15.5 **Liquidating Trust.** If upon the termination and winding up of the Fund there are among the assets of the Fund Non-Marketable Securities, upon written notice to the Class A Members, the Manager may cause a liquidating trust (a "Liquidating Trust") to be formed. Such a trust shall be under the sole management and control of the liquidating trustee (the "Liquidating Trustee"), who shall have full powers to carry out the purposes of the trust. The Liquidating Trustee shall be indemnified and exculpated on substantially the same terms as the Manager pursuant to Section 5.2 hereof. The Manager shall determine the identity of the Liquidating Trustee, who may be, but shall not be required to be, the Manager or a partner thereof or otherwise an Affiliate of the Manager. The Liquidating Trust will hold such Non-Marketable Securities owned by the Fund as the Manager shall determine, and the various Members shall be beneficiaries and shall participate in any distributions from the Liquidating Trust in the same proportions as such beneficiaries would have received from the Fund pursuant to Section 15.3(c) had such distributions instead been made by the Fund. The Liquidating Trustee shall hold such Financial Instruments solely for the purpose of sale or other disposition for the accounts of the several Members, and, upon such sale or other disposition, the net proceeds therefrom (after payment of expenses of the Liquidating Trust) shall be distributed among the beneficiaries in the proportions determined under the preceding sentence; provided, however, that such Financial Instruments may (in the Liquidating Trustee's discretion), and if such Financial Instruments are not sold or otherwise disposed of within 5 years of transfer to the Liquidating Trust shall, be distributed to the beneficiaries in such proportions. If a Liquidating Trust is established, the Liquidating Trustee will be entitled to be reimbursed for all reasonable out-of-pocket expenses and reasonable expenses related to sales of assets and other expenses consistent with those borne by the Fund pursuant to Section 4.2 and will receive, at the beginning of each quarter, a quarterly fee of 0.25 percent of the net asset value of the Liquidating Trust as of such date.

15.6 **Final Statement.** As soon as practicable after the dissolution of the Fund, a final statement of its assets and liabilities shall be prepared by the Manager and/or the service providers of the Fund and furnished to the Members.

## **SECTION 16 TAX MATTERS**

16.1 **Partnership Representative.**

- (a) The Partnership Representative shall have all powers necessary to perform fully in its capacity as the partnership representative and, in such capacity, the Partnership Representative shall use its reasonable efforts to comply with the responsibilities outlined in Code sections 6221 through 6233 (including the Treasury Regulations) and any corresponding provision of state or local law and shall have any powers necessary to perform fully in such capacity.
- (b) In furtherance of the foregoing, the Partnership Representative is authorized to represent the Fund before taxing authorities and courts in tax matters affecting the Fund and the Members in their capacity as such and shall keep the Members informed of any such administrative and judicial proceedings. The Partnership Representative shall be entitled to be reimbursed by the Fund for all costs and expenses incurred by it in connection with any administrative or judicial proceeding affecting tax matters of the Fund and the Members in their capacity as such.

16.2 **Tax Elections.**

- (a) The Partnership Representative, in its capacity as partnership representative, and the Fund shall, in the sole discretion of the Partnership Representative, make the election under Code section 6226(a).
- (b) Other than as provided in Section 16.4, the Partnership Representative, in its capacity as partnership representative, in its sole discretion may apply similar provisions to those found in this Section 16 to any tax audit, examination, or review process not explicitly addressed herein, including in respect of any state, local or foreign tax regime.
- (c) The Partnership Representative shall have the authority to cause the Fund to make or revoke any of the elections referred to in Code section 754, or any similar provision enacted in lieu thereof.

16.3 **Requirement for Members to Provide Certain Information and Cooperation.**

- (a) Each Member shall promptly provide the Fund with any information or documentation required by the Fund to enable the Fund to comply with Code sections 6221 through 6241, including (i) providing any information or taking such other actions as may be reasonably requested by the Partnership Representative in order to determine whether any Imputed Underpayment Amount may be modified pursuant to Code section 6225(c) and (ii) upon the request of the Partnership Representative, filing any amended U.S. federal, state or local income tax return and paying any tax due in connection with such tax return in accordance with Code section 6225(c)(2). A Member's obligation to comply with this Section 16.3 shall survive the transfer, assignment or liquidation of such Member's Interest in the Fund.

- (b) Each Member shall take such actions as may be required to effect the Manager's (or its designee's) designation as the Partnership Representative and shall promptly provide to the Fund such information as may be necessary or desirable in order for the Partnership Representative to carry out its powers under Section 3.4(l) and this Section 16, including information to facilitate compliance with Code section 743 and elections permitted thereunder.
  - (c) Each Class A Member shall reasonably cooperate with the Partnership Representative in connection with any tax audit of the Fund or any existing or former investment.
- 16.4 **Classification as a Fund.** The parties hereto intend that the Fund be classified as a "partnership" for U.S. federal income tax purposes. Except with the consent of all Members, (a) the Partnership Representative shall not elect to have the Fund classified as an association taxable as a corporation for U.S. federal income tax purposes pursuant to Treasury Regulation section 301.7701-3, and (b) neither the Partnership Representative nor any other Member shall make any other election or make any filing with any taxing or governmental authority that would cause the Fund to be classified as an association taxable as a corporation for U.S. federal income tax purposes.
- 16.5 **Tax Audits.** Each Member shall reasonably cooperate with the Manager in connection with any tax audit of the Fund or any existing or former investment.
- 16.6 **Survival.** The provisions of this Section 16 shall survive any termination of this Agreement.

## SECTION 17 GENERAL PROVISIONS

- 17.1 **Address and Notices.** The address of each Class A Member for all purposes shall be the address set forth on the signature page to this Agreement or such Member's subscription documents or such other address of which the Manager has received written notice in accordance with this Section 17.1. The address of the Manager for all purposes shall be 125 Summer Street, Floor 22, Boston, Massachusetts 02110, or such other address of which the Manager has provided written notice to the Members in accordance with this Section 17.1. Any notice, demand or request required or permitted to be given or made hereunder shall be in writing and shall be deemed given or made when delivered in person or when sent to such Member at such address by registered or certified mail, return receipt requested, or by electronic mail.
- 17.2 **Titles and Captions.** All section titles and captions in this Agreement are for convenience only. They shall not be deemed part of this Agreement and in no way define, limit, extend or describe the scope or intent of any provisions hereof.
- 17.3 **Pronouns and Plurals.** Whenever the context may require, any pronoun used herein shall include the corresponding masculine, feminine or neuter forms. The singular form of nouns, pronouns and verbs shall include the plural and vice versa.
- 17.4 **Further Action.** The parties shall execute and deliver all documents, provide all information and take or forbear from taking all such action as may be necessary or appropriate to achieve the purposes set forth in this Agreement.
- 17.5 **Governing Law, Personal Jurisdiction and Venue.** The parties acknowledge and agree that any claim, controversy, dispute or action relating in any way to this Agreement or the subject matter of this Agreement shall be governed solely by the laws of the State of

Delaware, without regard to any conflict of laws doctrines. The parties irrevocably consent to being served with legal process issued from the state and federal courts located in the State of Delaware and irrevocably consent to the exclusive personal jurisdiction of the federal and state courts situated in the State of Delaware. The parties irrevocably waive any objections to the personal jurisdiction of these courts. Said courts shall have sole and exclusive jurisdiction over any and all claims, controversies, disputes and actions which in any way relate to this Agreement or the subject matter of this Agreement. The parties irrevocable waive the right to a jury trial if and to the extent that such a waiver is permissible under applicable law. The parties also irrevocably waive any objections that these courts constitute an oppressive, unfair, or inconvenient forum and agree not to seek to change venue on these grounds or any other grounds.

17.6 **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties and their heirs, executors, administrators, successors, legal representatives and permitted assigns.

17.7 **Entire Agreement.** This Agreement, together with the related Subscription Agreement and any other written agreement between the Manager, on behalf of the Fund, and any Member, shall constitute the entire agreement and understanding among all the parties hereto with respect to the subject matter hereof. No covenant, representation or condition not expressed in this Agreement or such Subscription Agreement (or, if applicable, any supplemental agreement to this Agreement) shall affect or be deemed to interpret, change or restrict the express provisions hereof.

17.8 **Amendment.** This Agreement may be modified or amended only with the consent of the Manager and the affirmative vote of a Majority of Interests of the Class A Members voting collectively, except that (a) the Manager may amend this Agreement from time to time without the consent, approval or other authorization of, or notice to, any of the Class A Members if, in the opinion of the Manager, the amendment does not have a material adverse effect on any Class A Member; (b) no amendment may, without the consent of each affected Class A Member (i) convert a Class A Member's interest to that of the Manager, or (ii) modify the limited liability of any Class A Member; and (c) no amendment may materially and adversely modify any provision of this Agreement specific to a specific series of Class A Interests or a specific class of a specific series of Class A Interests or the holders of a specific series or specific class of a specific series of Class A Interests without the consent of a Majority in Interests of the Class A Members of such series or class of such series of Class A Interests.

17.9 **Creditors.** None of the provisions of this Agreement shall be for the benefit of or enforceable by any creditors of the Fund.

17.10 **Waiver by Member**

- (a) Any Member by notice to the Manager may, but shall be under no obligation to, waive any of its rights or any conditions to its obligations hereunder, or any duty, obligation or covenant of any other Member to such first mentioned Member.
- (b) No such waiver shall affect or alter the remainder of this Agreement, but each and every covenant, agreement, term and condition hereof shall continue in full force and effect with respect to any other existing or subsequent breach.

17.11 **Confidentiality.**

- (a) Each Member will maintain the confidentiality of, and will not disclose any, information furnished by the Manager or its Affiliates, or agents of either, or by any

person or entity associated with the development of the Property, regarding the Manager, the Fund, the Portfolio Entities, or the Interests received by such Member pursuant to this Agreement or otherwise, except (i) if such information is already in the possession of the Member (provided, that such information is not known by the Member to be subject to another confidentiality agreement with or other obligation (whether contractual, legal or fiduciary) to the Manager or another person), (ii) if such information becomes generally available to the public other than as a result of a disclosure not authorized herein by the Member or its directors, officers, employees, agents or advisors, (iii) if such information becomes available to the Member on a non-confidential basis from a source other than the Manager or its advisors (provided, that such source is not known by the Member to be bound by a confidentiality agreement with or other obligation (whether contractual, legal or fiduciary) to the Manager or another person), (iv) as otherwise required by governmental regulatory agencies, tax authorities, self-regulating bodies, law, legal process or litigation in which such Member is a defendant, plaintiff or other named party (provided, any disclosure that is either (x) not required by a governmental regulatory agency, tax authority, self-regulating body or (y) not on a confidential basis, shall require prior written notice thereof to the Manager) or (v) to directors, employees, representatives and advisors of such Member and its Affiliates who need to know the information, who are informed of the confidential nature of the information and who agree to keep it confidential. Without limitation of the foregoing, each Member acknowledges that notices and reports to Members hereunder may contain material non-public information concerning, among other things, the Portfolio Entities and agrees not to use such information other than in connection with monitoring its investment in the Fund and agrees in that regard not to trade in securities on the basis of any such information.

- (b) To the extent that the Freedom of Information Act, 5 U.S.C. § 552, (“FOIA”), any state public records access law, any state or other jurisdiction’s laws similar in intent or effect to FOIA, or any other similar statutory or regulatory requirement would potentially cause a Member or any of its Affiliates to disclose information relating to the Fund, the Manager, and/or the Underlying Interests, such Member hereby agrees that, in addition to compliance with the notice requirements set forth in Section 17.11(a), such Member (x) shall take commercially reasonable steps to oppose and prevent the requested disclosure unless (i) such Member is advised in writing by counsel that there exists no reasonable basis on which to oppose such disclosure, (ii) the Manager does not object to such disclosure within ten (10) business days (or such lesser time period as stipulated by the applicable law) of such notice or (iii) such disclosure solely relates to fund-level, aggregate performance information (e.g., aggregate cash flows, overall internal rates of return, and such Member’s own Capital Commitment) and does not include (A) any information relating to Underlying Interests, (B) copies of this Agreement, the Memorandum, the Subscription Agreement and related documents or (C) any other information not referred to in clause (iii) above and (y) acknowledges and agrees that, notwithstanding any other provision of this Agreement, the Manager may, in order to prevent any such potential disclosure that the Manager determines in good faith is likely to occur, withhold all or any part of the information otherwise to be provided to such Member other than the fund-level, aggregate performance information specified in clause (iii) above and the IRS Forms 1065, Schedule K-1s.

## 17.12 Rights and Remedies

- (a) The rights and remedies of any of the Members hereunder shall not be mutually exclusive, and the implementation of one or more of the provisions of this Agreement shall not preclude the implementation of any other provision.
  - (b) Each of the Members confirms that damages at law may be an inadequate remedy for a breach or threatened breach of any provision hereof. The respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy but nothing herein contained is intended to or shall limit or affect any rights at law or by statute or otherwise of any Member aggrieved as against the other Members for a breach or threatened breach of any provision hereof, it being the intention of this paragraph to make clear that the respective rights and obligations of the Members hereunder shall be enforceable in equity as well as at law or otherwise.
- 17.13 **Counterparts.** This Agreement may be executed in counterparts, all of which taken together shall constitute one agreement binding on all parties, notwithstanding that all the parties are not signatories to the original or the same counterpart. Each party shall become bound by this Agreement immediately upon affixing his, her or its signature hereto, independently of the signature of any other party.

[Rest of page intentionally left blank]

IN WITNESS WHEREOF, this Agreement has been duly executed by the Manager below and by each Member on one or more separate signature pages.

**SKK Ventures QP Manager, LLC**  
Manager

By: \_\_\_\_\_  
[NAME]  
Managing Member

[Rest of page intentionally left blank]

## MEMBER SIGNATURE PAGE

Your signature on this signature page evidences your agreement to be bound by the Agreement.

**INDIVIDUALS:**

---

Signature

---

Name  
(*Please type or print*)

---

Name of Spouse if Co-Owner  
(*Please type or print*)

---

Signature of Spouse if Co-Owner

**ENTITIES:**

---

Name of Entity  
(*Please type or print*)

---

By: \_\_\_\_\_  
Signature

---

Name of Authorized Signatory  
(*Please type or print*)

---

Title of Authorized Signatory  
(*Please type or print*)

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## **Appendix I: Definitions**

**“1940 Act”** means the Investment Company Act of 1940, as amended.

**“Accredited Investor”** means a person who meets the requirements of an “accredited investor,” as defined in Section 501(a) of Regulation D under the Securities Act.

**“Affiliate”** means, when used with reference to a specified person, any person directly or indirectly controlling, controlled by or under common control with the specified person, any trust or foundation to which the specified person has made a majority of the grants, donations or contributions received by that trust or foundation, a person owning or controlling 10 percent or more of the outstanding voting securities of the specified person, a person 10 percent or more of whose outstanding voting securities are owned or controlled by the specified person, any officer, director, partner, manager, member, trustee, employee, agent, or portfolio manager of the specified person, and if the specified person is an officer, director, partner, manager, member, trustee, employee, agent, or portfolio manager, any corporation, partnership, limited liability company, or trust for which the specified person acts in any such capacity.

**“Agreement”** has the meaning set forth in the introductory paragraph of this Agreement.

**“Capital Account”** has the meaning set forth in Section 8.1(a).

**“Capital Contribution”** means a contribution of cash or Financial Instruments to the Fund by a person that is (or thereupon becomes) a Member, whether initially contributed or subsequently contributed as permitted hereby, but excluding loans designated as such.

**“Certificate”** means the Certificate of Limited Liability Company of the Fund, as filed with the Secretary of State of the State of Delaware.

**“Code”** means the Internal Revenue Code of 1986, as amended.

**“Delaware LLC Act”** means the Delaware Revised Uniform Limited Liability Company Act, as amended.

**“ERISA”** means the Employee Retirement Income Security Act of 1974, as amended.

**“Financial Instruments”** means all types of financial assets, U.S. or non-U.S., whether publicly or non-publicly traded, and all dividends, distributions, return of capital, interest, instruments and other property from time to time received, receivable or otherwise distributed in respect of or in exchange for any or all of such financial assets, as well as any and all securities entitlements related thereto. Without limiting the foregoing, **“Financial Instruments”** includes: (a) stocks, notes, bills, bonds, debentures, subscriptions, preferred stocks, convertible securities, options (including, without limitation, covered and uncovered puts and calls and over-the-counter options); (b) rights, warrants, swaps, currencies, futures, single stock futures, other commodity interests, commodity options, options on futures, certificates of deposit; (c) trust receipts, American Depository Receipts (ADRs), International Depository Receipts, equipment trust certificates; (d) real estate, precious metals, and commodities; (e) interests in investment companies, interests in exchange-traded funds (ETFs), interests in real estate investment trusts (REITs), interests in Funds, certificates of interest or participation in any profit-sharing agreement, collateral trust certificates; (f) bankruptcy claims, investment contracts, loan agreements, evidences of indebtedness, mortgages, mortgage-backed securities, and asset backed securities; and (g) derivative and similar transactions, including: (i) basis, buy/sell-back, interest rate, currency, cross currency, foreign exchange, commodity, credit, emissions, equity, equity index, weather, bond, option, bullion, repurchase, reverse-repurchase, securities lending and borrowing, and total return transactions, (ii) any transaction included in the definition of “Specified Transaction” in the ISDA

2002 Master Agreement (or any successor thereto), (iii) transactions ancillary to transactions described within this definition, (iv) any other similar transaction existing now or developed in the future in the financial markets, or (v) transactions to secure, collateralize or provide credit support for any of the foregoing transactions. Such Financial Instrument may, but is not required to be, structured as a swap, collar, forward, forward rate agreement, cap, floor, future, option, option on a transaction or any other type of structure, or any combinations of structures.

**“Fiscal Year”** means the period from the date that the Fund commences or commencing on any subsequent January 1, and ending on the succeeding December 31, or, if earlier, ending on the date of dissolution and termination of the Fund.

**“Fund”** means SKK Ventures QP, LLC, a limited liability company organized under the laws of the Delaware LLC Act.

**“GAAP”** means the generally accepted accounting principles used in the U.S. to prepare, present and report financial statements of limited liability companies such as the Fund.

**“Interests”** mean the Fund interests of the Fund. Each Member’s Interest shall be equal to the quotient resulting from dividing (a) the amount in the Member’s Capital Account, including the fair value of such Member’s interests in any New Issues Accounts and other memorandum accounts in which the Member has an interest, by (b) the aggregate amount in the Capital Accounts of all Members, including the fair value of all New Issues Accounts and other memorandum accounts. Classes of Interests are not “series” within the meaning of Section 17-218 of the Delaware LLC Act.

**“Involuntary Withdrawal”** means any of the dissolution of the Manager, a voluntary or involuntary petition for bankruptcy being filed by or against the Manager, or the making by the Manager of any assignment for the benefit of its creditors.

**“IRS”** means the Internal Revenue Service.

**“Knowledgeable Employee”** has the meaning ascribed to that term in Rule 3c-5(a)(4) under the 1940 Act.

**“Liquidating Trust”** has the meaning set forth in Section 15.5.

**“Liquidating Trustee”** has the meaning set forth in Section 15.5.

**“Majority in Interest”** of (a) the Class A Members voting collectively shall mean the Class A Members of all series and classes whose aggregate Percentage Interests exceeds 50 percent of the Percentage Interests of all Class A Members, and (b) the Class A Members holding a Majority in Interests of a series or class of a series shall mean the Class A Members whose aggregate Percentage Interests relating to such series or class exceeds 50 percent of the Percentage Interests of all Class A Members of such series or class, provided, that for purposes of either of the foregoing, any Class A Member Interest owned or controlled by the Manager or any Affiliate of the Manager shall be deemed not to be outstanding for purposes of any determination under this Agreement of a particular percentage in interest of the Class A Members and shall therefore not be considered in either the numerator or denominator of such percentage calculation.

**“Management Fee”** has the meaning set forth in Section 4.1.

**“Manager”** means SKK Ventures QP Manager, LLC, a Delaware limited liability company, and any other person appointed as a manager in accordance with the Agreement.

**“Marketable Securities”** means Financial Instruments that are (a) traded on a securities exchange (or similar market) or over the counter, and (i) freely transferable pursuant to either Rule 144 of

the Securities Act (without being subject to any volume restrictions set forth in Rule 144(e)) or Rule 145 of the Securities Act it being agreed that the Manager may assume that none of the Members is an “affiliate” of the issuer thereof as defined under Rule 144 of the Securities Act and (ii) not subject to any underwriter “lock-up” or other contractual restrictions on transferability, or (b) currently the subject of an effective Securities Act registration statement.

“Members” has the meaning set forth in the introductory paragraph of this Agreement.

“Net Profits” or “Net Losses” means for each Fiscal Year or other period, the taxable income or taxable loss of the Fund for such period determined in accordance with Code section 703(a) (for this purpose, all items of income, gain, loss or deduction required to be separately stated pursuant to Code section 703(a)(1) shall be included in taxable income or taxable loss), with the following adjustments:

- (a) Any income of the Fund that is exempt from federal income tax and not otherwise taken into account in computing Net Profits or Net Losses shall be added to such taxable income or taxable loss;
- (b) Any expenditures of the Fund described in Code section 705(a)(2)(B) or treated as Code section 705(a)(2)(B) expenditures pursuant to Treasury Regulations Section 1.704-1(b)(2)(iv)(i), and not otherwise taken into account in computing Profits and Losses, shall be subtracted from such taxable income or taxable loss;
- (c) In lieu of any depreciation, amortization and other cost recovery deductions taken into account in computing such taxable income or taxable loss, the Fund shall compute such deductions based on the book value of the Fund property, in accordance with Treasury Regulations Section 1.704-1(b)(2)(iv)(g)(3);
- (d) Gain or loss resulting from a taxable disposition of Fund property shall be computed by reference to the book value of such item of Fund property disposed of, notwithstanding that the adjusted tax basis of such item of Fund property differs from its book value;
- (e) In the event that the book value of any Fund property is adjusted to equal the fair market value of such Fund property, pursuant to Section 8.4, the amount of any increase or decrease in such book value attributable to such adjustment will be taken into account as gain or loss from the disposition of such item of Fund property for purposes of computing Net Profits and Net Losses;
- (f) In the event that any item of Fund property is distributed in-kind to a Member, the difference between the fair market value of such item of Fund property and the adjusted tax basis of the Fund in such item of Fund property will be taken into account as gain or loss from the disposition of such item of Fund property for purposes of computing Net Profits and Net Losses; and
- (g) Any income, gain, loss, or deduction specially allocated to the Members under Section 9.2 or Section 9.3 shall not be taken into account in computing Net Profits or Net Losses.

“Non-Marketable Securities” means Financial Instruments that are not Marketable Securities.

“Partnership Representative” means the person designated in accordance with Section 3.4(l) as the “partnership representative” of the Fund, within the meaning of Code section 6223(a) and any corresponding provision of state or local law.

**“Percentage Interest”** with respect to any Class A Member of any series or any class of any series on a particular date, the fraction, expressed as a percentage, the numerator of which is the Capital Account balance of such Class A Member relating to such series or class and the denominator of which is the aggregate Capital Account balance of all Class A Interests of such series or class on such date.

**“Portfolio Entity”** means any corporation or other issuer (including a Portfolio Fund) in which the Fund holds a direct interest, other than money market funds or similar issuers of cash equivalent interests.

**“Portfolio Fund”** means a pooled investment vehicle in which the Fund holds a direct interest.

**“Portfolio Interest”** means any direct interest held by the Fund in a Portfolio Entity; provided, that the Manager shall have the discretion to elect, at the time of acquisition, to treat multiple direct interests acquired by the Fund in a single transaction or series of related transactions either (a) as a single Portfolio Interest or (b) as two Portfolio Interests, with one such Portfolio Interest allocated to one series of Interests and the other Portfolio Interests allocated to another series of Interests.

**“Qualified Purchaser”** has the meaning ascribed to that term in Section 2(a)(15) of the 1940 Act.

**“Securities Act”** means the Securities Act of 1933, as amended.

**“Series Allocated Net Profits”** or **“Series Allocated Net Losses”** relating to a specific series for a Fiscal Year or other period means the portion of the Net Profits or Net Losses for such period specifically allocated to such series, which shall be determined as follows:

- (a) all amounts of income and sale proceeds received by the Fund during such period that the Manager determines are directly attributable to the Portfolio Interest assigned to such series; plus
- (b) an amount equal to the series’ Series Percentage of the aggregate amount of income and sale proceeds received by the Fund during such period less the amounts of income and sale proceeds described in (a) above for all series; minus
- (c) the portion of the Management Fee paid by the Fund attributable to Capital Contributions to such series; minus
- (d) all amounts of Fund expenses as provided in Section 4.2(a) incurred by the Fund during such period that the Manager determines are directly attributable to the Portfolio Interests assigned to such series, which Fund expenses shall not be deemed to include any amounts paid on behalf of the Fund by any other person and not reimbursed or reimbursable by the Fund; and minus
- (e) an amount equal to the series’ Series Percentage of the aggregate amount of Fund expenses less the amount of expenses described in (c) above for all series, which Fund expenses shall not be deemed to include any amounts paid on behalf of the Fund by any other person and not reimbursed or reimbursable by the Fund.

For any period, the sum of the amounts of Series Allocated Net Profits for all series then outstanding shall equal the amount of Net Profits, and the sum of the amounts of Series Allocated Net Losses for all series then outstanding shall equal the amount of Net Losses.

**“Series Percentage”** of a specific series for a Fiscal Year or other period means (x) the aggregate amount of all Capital Contributions as of the last day of such period with respect to the Class A

Members of such series divided by (y) the aggregate amount of all Capital Accounts in the Fund as of the last day of such period. The Series Percentage of a series that has been terminated in accordance with this Agreement will be deemed to be zero for any period after such termination.

**“Special Attorney”** means, with respect to Section 14, the Manager and its respective successors.

**“Subscription Agreement”** means the Subscription Agreement in the form required by the Manager in connection with the subscription of Class A Interests, and any other document requirement by the Manager in connection with the subscription of Class A Interests.

**“Substitute Member”** means any purchaser, transferee, donee or other recipient of any disposition of a Interest) after being admitted to the Fund as a Member in accordance with the terms of the Agreement.

**“Transfer”** means offer, sell, transfer, assign, exchange, hypothecate or pledge, or otherwise dispose of or encumber.

**“Treasury Regulations”** means the regulations promulgated by the U.S. Treasury under the Code.

**SKK VENTURES QP, LLC**  
**A DELAWARE LIMITED LIABILITY COMPANY**

**SUBSCRIPTION BOOKLET  
(FOR U.S. PERSONS ONLY)**

This Subscription Booklet is used for the offering of Class A membership interests in SKK Ventures QP, LLC (the “Fund”) only to investors who are “U.S. persons” for U.S. federal income tax purposes.

Interests in the Fund are available only to investors who are, at minimum: (a) “Accredited Investors” as defined in Regulation D under the Securities Act of 1933, as amended; and (b) “Qualified Purchasers” as defined by Section 2(a)(51) of the Investment Company Act of 1940, as amended.

**THIS IS NOT AN OFFER TO SELL OR A SOLICITATION OF AN OFFER TO BUY THE INTERESTS DESCRIBED IN THE FUND’S CONFIDENTIAL PLACEMENT MEMORANDUM IN ANY JURISDICTION TO ANY PERSON TO WHOM IT IS UNLAWFUL TO MAKE SUCH AN OFFER OR SALE.**

Use this form of Subscription Agreement only if you are a “U.S. person” for U.S. federal income tax purposes. A “U.S. person” includes, among others, (a) a U.S. citizen, (b) a U.S. resident alien, (c) a partnership, limited liability company, or corporation organized or formed under the laws of the U.S. or any U.S. state, and (d) a domestic trust or estate.

If you are not a “U.S. person” for U.S. federal income tax purposes, please call the SKK Ventures QP Manager, LLC at +1 617-896-1600.

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## SUBSCRIPTION INSTRUCTIONS

This subscription booklet (the “Subscription Booklet”), including the form of Subscription Agreement included herein (the “Subscription Agreement”), relates to the offering of a Class A limited liability company interest (the “Interest”) in SKK Ventures QP, LLC, a Delaware limited liability company (the “Fund”). This Subscription Booklet contains all of the materials necessary for you to subscribe for an Interest in the Fund. Prior to completing and submitting the Subscription Booklet, however, you should read a copy of the Limited Liability Company Agreement of the Fund, as amended from time to time (the “Agreement”), as well as the Fund’s Private Placement Memorandum, including all supplements relevant to the series in which the Investor is investing, (collectively, the “Memorandum”).

Subject to acceptance by the Manager, you may apply to become a Member of the Fund by taking the following steps:

1. Fill in the name of the investor and subscription amount(s) on the cover page of the Subscription Agreement; read the entire Subscription Agreement (note that by executing and delivering the signature pages as provided below, you are agreeing to the terms of the Subscription Agreement);
2. Complete the Investor Data Sheet (the investor must provide all information regarding its identity, including its name and tax identification number or social security number and all contact information);
3. Complete the Investor Questionnaire;
4. Complete, sign and date each of the Subscription Agreement Signature Page and Limited Liability Company Agreement Signature Page;
5. Read the Confidentiality Disclosure / Privacy Policy of the Fund and its Manager and investment manager, and sign the Acknowledgement of Receipt of the Confidentiality Disclosure / Privacy Policy;
6. Complete, sign and date the Consent for Electronic Communications and Delivery of Documents;
7. Complete, sign and date Internal Revenue Service (IRS) Form W-9 “Request for Taxpayer Identification Number and Certification” in accordance with the instructions accompanying such form; and
8. Please return the fully completed original Subscription Booklet (including any unmarked pages) to:

**SKK Ventures QP, LLC**  
**c/o Shepherd Kaplan Kochuk, LLC**  
**125 Summer Street, Floor 22**  
**Boston, Massachusetts 02110**  
**Attention: Investor Relations**  
**Telephone: +1 617-896-1600**  
**Email: investorrelations@skk-llc.com**

9. Your capital contributions to the Fund should be delivered by wire transfer. Wire instructions will be provided upon acceptance of your subscription documents by the Manager.

10. Questions regarding the subscription documents should be directed to SKK Investor Relations at +1 617-896-1600 (e-mail: investorrelations@skk-llc.com).

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## INVESTOR DATA SHEET

**Name of Investor:** \_\_\_\_\_

**Social Security Number or Taxpayer Identification Number:<sup>1</sup>** \_\_\_\_\_

**Principal Place of Business of Investor:**

\_\_\_\_\_ (Street Address)

\_\_\_\_\_ (Street Address)

(City) \_\_\_\_\_ (State) \_\_\_\_\_ (Post/Zip Code) \_\_\_\_\_ (Country) \_\_\_\_\_

(Telephone) \_\_\_\_\_ (Facsimile) \_\_\_\_\_

**SEND CORRESPONDENCE TO:**

**Primary Correspondence Contact:**

\_\_\_\_\_ (Name)

\_\_\_\_\_ (Company)

\_\_\_\_\_ (Street Address)

City) \_\_\_\_\_ (State) \_\_\_\_\_ (Post/Zip Code)

\_\_\_\_\_ (Telephone)

\_\_\_\_\_ (Facsimile)

\_\_\_\_\_ (E-mail Address)

**Additional Correspondence Contact(s):**

\_\_\_\_\_ (Name)

\_\_\_\_\_ (Company)

\_\_\_\_\_ (Street Address)

City) \_\_\_\_\_ (State) \_\_\_\_\_ (Post/Zip Code)

\_\_\_\_\_ (Telephone)

\_\_\_\_\_ (Facsimile)

\_\_\_\_\_ (E-mail Address)

<sup>1</sup> If the Investor is investing as a joint tenant or tenant in common, please provide the Social Security Number of Taxpayer

**SEND DISTRIBUTIONS/WITHDRAWAL PROCEEDS TO:**

***Please Note: This account must be the same account from which the Investor will make all capital contributions to the Fund.***

**Wiring Instructions:**

\_\_\_\_\_  
Name of Bank

\_\_\_\_\_  
Address of Bank

\_\_\_\_\_  
Country of Bank

\_\_\_\_\_  
ABA Number

\_\_\_\_\_  
Account Number

\_\_\_\_\_  
Exact Name Under Which Account Is Held at the Bank

\_\_\_\_\_  
For Further Credit Account Name

\_\_\_\_\_  
For Further Credit Account Number

**Form of ownership of the Interest (*individuals must check one*):**

- Individual       Joint Tenants with right of survivorship or Tenancy by the Entirety (*each must sign and complete the appropriate IRS Form*)       Tenants-in-Common (*each individual must sign and complete the appropriate IRS Form*)       Individual Retirement Account

Other, *please specify:* \_\_\_\_\_

**Form of ownership of the Interest (*entities must check one*):**

- Corporation       Partnership       Limited Liability Company  
 Trust       Foundation       Endowment  
 Employee Benefit Plan       Keogh Plan       Other: \_\_\_\_\_  
 Governmental Plan       Non-U.S. Partner\*

State or other jurisdiction in which incorporated or formed: \_\_\_\_\_ \*

\* If you are not a “U.S. person” for U.S. federal income tax purposes, please call the SKK Ventures QP Manager, LLC at +1 617-896-1600.

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## **SUBSCRIPTION AGREEMENT**

**Full Name of Investor (no initials)**

<b>Current Series Portfolio Summary:</b> <b>BD0:</b> Invests in BioDirection, Inc. <b>CT0:</b> Invests in Cristcot LLC <b>WG4:</b> Invests in Windgap Medical, Inc.	<b>Class A/ Series:</b> _____ <b>Amount</b> <b>Class A/ Series:</b> _____ <b>Amount</b> <b>Class A/ Series:</b> _____ <b>Amount</b> <b>Class A/ Series:</b> _____ <b>Amount</b>
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SKK Ventures QP, LLC  
c/o Shepherd Kaplan Krochuk, LLC  
125 Summer Street, Floor 22  
Boston, Massachusetts 02110  
Attention: Tim Krochuk,  
Managing Member

Ladies and Gentlemen:

This subscription agreement (together with the Investor Questionnaire, the Investor Data Sheet, and all attachments collectively referred to herein as this “Subscription Agreement”) is made by and among SKK Ventures QP, LLC, a Delaware limited liability company (the “Fund”), SKK Ventures QP Manager, LLC, a Delaware limited liability company and the Manager of the Fund (the “Manager”), and the undersigned individual or entity (the “Investor”) who is hereby applying to become a member of the Fund, on the terms and conditions set forth in this Subscription Agreement and in the Limited Liability Company Agreement of the Fund, as amended from time to time (the “Agreement”), a copy of which has been furnished to the Investor. Capitalized terms used but not defined in this Subscription Agreement have the meanings set forth in the Agreement.

The parties hereto agree as follows:

### **I. SUBSCRIPTION AGREEMENT**

The Investor hereby irrevocably subscribes for limited liability company interests in the Fund in the amount(s) and in the class and series set forth above. The Investor acknowledges that the Manager shall notify the Investor as to the rejection or acceptance, in whole or in part, of the Investor’s

subscription for an Interest. An Interest shall not be deemed to be sold or issued to, or owned by, the Investor (and an Investor's subscription for an Interest, in whole or in part, shall not be deemed finally accepted) until the Investor is admitted as a Member of the Fund. The Investor further acknowledges that the Manager reserves the right, in its sole discretion, to admit the Investor as a Member of the Fund at such time and on such date as the Manager determines, and that the Manager reserves the right, in its sole discretion, to reject this subscription for an Interest, in whole or in part, at any time, notwithstanding execution by or on behalf of the Investor of the signature page hereof or notice from the Manager of its conditional acceptance of the Investor's subscription for an Interest. If this subscription is rejected in full, or in the event the admission of the Investor does not occur (in which event this subscription shall be deemed to be rejected), this Subscription Agreement shall thereafter have no force or effect. The Investor shall be bound by the terms of the Agreement.

## **II. ACKNOWLEDGMENTS, REPRESENTATIONS, WARRANTIES, AND COVENANTS**

A. Representations and Warranties of the Investor. The Investor hereby represents and warrants to the Manager and the Fund that the following statements are true as of the date hereof and shall be true as of each date on which the Investor makes any Additional Capital Contributions to the Fund:

1. The Investor's Interest is being acquired for its own account solely for investment and not with a view to resale or distribution thereof.

2. The Investor represents and warrants that: (a) it is an "accredited investor" (as defined in Regulation D promulgated under the Securities Act of 1933, as amended (the "Securities Act")); (b) it is a "qualified purchaser" as defined by Section 2(a)(51) of the Investment Company Act of 1940, as amended (the "1940 Act"); (d) it is a "U.S. person" (as defined in Regulation S promulgated under the Securities Act), and (e) the information relating to the Investor set forth in the Investor Questionnaire attached hereto and forming a part of this Subscription Agreement is complete and accurate as of the date set forth on the signature page hereof and shall be complete and accurate as of the date on which the Investor makes its Capital Contributions.

3. In connection with the purchase of an Interest, the Investor meets all suitability standards imposed on it by applicable law. The Investor is not structured or operated for the purpose or as a means of circumventing the provisions of the 1940 Act or the Securities Act.

4. The Investor has been given the opportunity to (i) ask questions of, and receive answers from, the Manager or any of its Affiliates concerning the terms and conditions of the offering of Interests and other matters pertaining to an investment in the Fund and (ii) obtain any additional information necessary to evaluate the merits and risks of an investment in the Fund that the Manager can acquire without unreasonable effort or expense. In considering a subscription for an Interest, the Investor has read the Fund's Private Placement Memorandum, including all supplements relevant to the series in which the Investor is investing, (the "Memorandum"), and the Agreement and evaluated for itself the risks and merits of such investment and is able to bear the economic risk of such investment, including a complete loss of capital, and in addition has not relied upon any representations made by, or other information (whether oral or written) furnished by or

on behalf of, the Fund, the Manager, or any director, officer, employee, agent or Affiliate of such persons, other than as set forth in the Memorandum, the Agreement and this Subscription Agreement. The Investor has carefully considered and has, to the extent it believes necessary, discussed with legal, tax, accounting and financial advisors the suitability of an investment in the Fund in light of its particular tax and financial situation, and has determined that the Interest being subscribed for hereunder is a suitable investment for the Investor. The Investor has not construed the contents of the Memorandum as legal, tax or investment advice.

5. The Investor, if **it is a corporation, limited liability company, trust, partnership or other entity**, is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization, and the execution, delivery and performance by the Investor of this Subscription Agreement and the Agreement are within the Investor's corporate or other powers, as applicable, have been duly authorized by all necessary corporate or other action on its behalf, require no action by or in respect of, or filing with, any governmental body, agency or official (except as disclosed in writing to the Manager), and do not and shall not result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any provision of any charter, by-laws, trust agreement, indenture, mortgage, deed of trust, credit, note or evidence of indebtedness, or any lease or other agreement, or any license, permit, franchise or certificate, regulation, law, judgment, order, writ, injunction or decree to which the Investor is a party or by which the Investor or any of its properties is bound. This Subscription Agreement and the Agreement have been duly executed and delivered by the Investor and constitute valid and binding agreements of the Investor, enforceable against the Investor in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

6. If the Investor is a **natural person**, the execution, delivery and performance by the Investor of this Subscription Agreement and the Agreement are within the Investor's legal right, power and capacity, require no action by or in respect of, or filing with, any governmental body, agency, or official (except as disclosed in writing to the Manager), and do not and shall not result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any provision of applicable law or regulation or of any judgment, order, writ, injunction or decree or any agreement or other instrument to which the Investor is a party or by which the Investor or any of the Investor's properties is bound. This Subscription Agreement and the Agreement have been duly executed and delivered by the Investor and constitute valid and binding agreements of the Investor, enforceable against the Investor in accordance with their terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

7. Where the Investor is a **financial institution, broker or other person applying to acquire Interests on behalf of its client(s)**: (i) it has full power and authority on behalf of the client(s) to subscribe for Interests and to execute any necessary subscription documentation, including this Subscription Agreement; (ii) it is a financial institution, broker or entity that is subject to, and supervised for compliance with anti-money laundering and countering of terrorism financing requirements consistent with the standards set by the Financial Action Task Force; (iii) it is authorized and empowered to make all the representations in this Subscription Agreement on behalf of each of these client(s) and has the agreement of each of these client(s)

regarding the use of such client's personal data; and (iv) each of its clients is an "accredited investor" pursuant to Section 4 above.

8. If the Investor constitutes a ***partnership, grantor trust or S-corporation for U.S. federal income tax purposes***, there is no beneficial owner of the Investor, substantially all of the value of whose interest in the Investor is attributable to the Investor's B3 Interest (direct or indirect) within the meaning of Treasury Regulation Section 1.7704-1(h)(3).

9. If the Investor is a ***Benefit Plan Investor*** (as defined in the Investor Questionnaire): (i) assuming that the assets of the Fund are not "plan assets" for purposes of ERISA, the purchase, holding and disposition of the Interest by the Investor shall not result in a prohibited transaction under Section 406 of the U.S. Employee Retirement Income Security Act of 1974, as amended ("ERISA"), or Section 4975 of the U.S. Internal Revenue Code of 1986, as amended (the "Code"), for which an exemption is not available; (ii) it has not solicited and has not received from the Manager, or any director, officer, employee, agent or Affiliate thereof, any evaluation or other investment advice on any basis in respect of the advisability of a subscription for an Interest in light of the plan's assets, cash needs, investment policies or strategy, overall portfolio composition or plan for diversification of assets and it is not relying and has not relied on the Manager or any director, officer, employee, agent or Affiliate thereof for any such advice; and (iii) neither the Manager nor any director, officer, employee, agent or Affiliate thereof is a "fiduciary" (within the meaning of ERISA) of the Investor in connection with the Investor's purchase of Interests.

10. If the Investor is a ***governmental pension plan or a foreign pension plan***: (i) the purchase, holding and disposition of the Interest by the Investor shall not result in a violation of any U.S. federal, state or local law applicable to the Investor which is substantially similar to Section 406 of ERISA or Section 4975 of the Code and for which an exemption is not available; and (ii) it has not solicited and has not received from the Manager, or any director, officer, employee, agent or Affiliate thereof, any evaluation or other investment advice on any basis in respect of the advisability of a subscription for an Interest in light of the plan's assets, cash needs, investment policies or strategy, overall portfolio composition or plan for diversification of assets and it is not relying and has not relied on the Manager or any director, officer, employee, agent or Affiliate thereof for any such advice.

11. If the Investor is, or is acting (directly or indirectly) on behalf of an employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject to ERISA) or a plan, individual retirement account or other arrangement described in Section 4975 of the Code (a "Plan") : (a) the decision to invest in the Fund was made by a fiduciary (within the meaning of Section 3(21) of ERISA, or under applicable Similar Laws) of the Plan (the "Fiduciary"), which is unrelated to the Manager or any director, officer, employee, agent or Affiliate thereof and which is duly authorized to make such an investment decision; (b) the Fiduciary has taken into consideration its fiduciary duties under ERISA or any applicable Similar Laws, including the diversification requirements of Section 404(a)(1)(C) of ERISA (if applicable), in authorizing the Plan's investment in the Fund and has concluded that such investment is prudent; and (c) the Plan's subscription to invest in the Fund and the purchase of the Interest is in accordance with the terms of the Plan's governing instruments and complies with all applicable requirements of ERISA, the Code and Similar Laws.

12. If the Investor is investing the assets of a Plan that would not be considered a “Benefit Plan Investor” (as defined in the Investor Questionnaire) or a U.S. governmental plan, the Fund’s assets will not constitute the assets of the Plan under the provisions of any applicable Similar Laws by virtue of the Plan’s investment in the Fund.

13. The Investor is not a defined contribution plan (such as a 401(k) plan) or a partnership or other investment vehicle (i) in which its partners or participants have or shall have any discretion to determine whether or how much of the Investor’s assets are invested in any investment made or to be made by the Investor or (ii) that is otherwise an entity managed to facilitate the individual decisions of its beneficial owners to invest in the Fund.

14. The Investor was offered the Interest in the state or other jurisdiction identified in Part 1 of the Investor Data Sheet under the heading “Principal Place of Business of Investor” and the Investor intends that the securities laws of such state or other jurisdiction shall govern the Investor’s subscription for the Interest.

15. The Investor is not subscribing for the Interest as a result of or subsequent to (i) any advertisement, article, notice or other communication published in any newspaper, magazine or similar medium or broadcast over radio, television or the Internet or (ii) any seminar or meeting whose attendees have been invited by any general solicitation or general advertising.

16. Any Capital Contributions made by the Investor to the Fund shall not directly or indirectly be derived from activities that may contravene applicable laws and regulations, including anti-money laundering laws and regulations.

17. The Investor has conducted due diligence and represents and warrants that, to the best of its knowledge, none of: (a) the Investor; (b) any person controlling or controlled by the Investor; (c) if the Investor is a privately held entity, any person having a beneficial interest in the Investor; (d) if the Investor is not the beneficial owner of all of the Interest, any person having a beneficial interest in the Interest; or (e) any person for whom the Investor is acting as agent or nominee in connection with this investment in the Interest: (i) bears a name that appears on the List of Specially Designated Nationals and Blocked persons maintained by the U.S. Office of Foreign Assets Control (“OFAC”) from time to time;<sup>2</sup> (ii) is a foreign shell bank;<sup>3</sup> (iii) resides in or whose subscription funds are transferred from or through an account in a non-cooperative jurisdiction;<sup>4</sup> (iv) is a senior foreign political figure,<sup>5</sup> any member of a senior foreign political figure’s

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<sup>2</sup> The lists of OFAC prohibited countries, territories, persons and entities can be found on the OFAC website at <http://www.treas.gov/offices/enforcement/ofac/>.

<sup>3</sup> A “foreign shell bank” means a foreign bank without a physical presence in any country, but does not include a regulated affiliate. “Foreign bank” means an organization that (i) is organized under the laws of a foreign country, (ii) engages in the business of banking, (iii) is recognized as a bank by the bank supervisory or monetary authority of the country of its organization or principal banking operations, (iv) receives deposits to a substantial extent in the regular course of its business, and (v) has the power to accept demand deposits, but does not include the U.S. branches or agencies of a foreign bank. The term “physical presence” means a place of business that is maintained by a foreign bank and is located at a fixed address, other than solely a post office box or an electronic address, in a country in which the foreign bank is authorized to conduct banking activities, at which location the foreign bank (i) employs one or more individuals on a full-time basis, (ii) maintains operating records related to its banking activities, (iii) is subject to inspection by the banking authority that licensed the foreign bank to conduct banking activities, and (iv) does not provide banking services to any other foreign bank that does not have a physical presence in any country and that is not a regulated affiliate.

<sup>4</sup> A “non-cooperative jurisdiction” means any country or territory that has been designated as non-cooperative with international anti-money laundering principles or procedures by an intergovernmental group or organization, such as the Financial Action Task Force on Money

immediate family<sup>6</sup> or any close associate<sup>7</sup> of a senior foreign political figure; (v) resides in, or is organized or chartered under the laws of, a jurisdiction that has been designated by the U.S. Secretary of the Treasury under Section 311 or 312 of the USA PATRIOT ACT as warranting special measures due to money laundering concerns; or (vi) will contribute subscription funds that originate from, or will be or have been routed through, an account maintained by a foreign shell bank, an “off-shore bank,” or a bank organized or chartered under the laws of a non-cooperative jurisdiction. No contribution or payment by the Investor to the Fund, to the extent that such contribution or payment is within such Investor’s control, and no distribution to such Investor (assuming it is made with instructions provided to the Manager by such Investor) shall cause the Fund, the Manager, or any of their respective Affiliates to be in violation of applicable money laundering laws, including the Bank Secrecy Act, the Money Laundering Control Act of 1986, the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001, or the PATRIOT Act or any other anti-money laundering laws or regulations, in each case, such statute as amended to date and any successor statute thereto and including all regulations promulgated thereunder.

18. If the Investor is a “fund of funds”, it is in compliance with its anti-money laundering policies, procedures and controls (together, the “AML policies”) and its AML policies have been approved by counsel or internal compliance personnel reasonably informed of anti-money laundering policies and their implementation and has not received a deficiency letter, negative report or any similar determination regarding its AML policies from independent accountants, internal auditors or some other person responsible for reviewing compliance with its AML policies.

19. The Investor has not been subject to any disqualifying event under Rule 506(d) of Regulation D, as defined below, and is not subject to any proceeding or event that could result in any such disqualifying event (a “Disqualifying Event”). The following representations apply to Investor as well as each direct or indirect owner of Investor that would own 20 percent or more of the Fund’s Interests if such owner were a direct partner in the Fund (each a “Significant Owner”). By way of example only, if Investor owns 40% of the Fund’s Interests, Investor would have a Significant Owner if one of Investor’s beneficial owners owns 50% or more of the outstanding equity of Investor. Investor shall be deemed to have been subject to a “Disqualifying Event” if the Investor or any Significant Owner:

(a) Has been convicted within ten years of the date hereof of any felony or misdemeanor (i) in connection with the purchase or sale of any security, (ii) involving the making of any false filing with the U.S. Securities and Exchange Commission (the “SEC”) or (iii) arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities;

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5 Laundering (“FATF”), of which the United States is a member and with which designation the United States representative to the group or organization continues to concur. See <http://www.fatf-gafi.org> for FATF’s list of non-cooperative countries and territories.

6 A “senior foreign political figure” means a current or former senior official in the executive, legislative, administrative, military or judicial branches of a foreign government (whether elected or not), a senior official of a major foreign political party, or a senior executive of a foreign government-owned corporation, as well as any corporation, business or other entity that has been formed by, or for the benefit of, a senior foreign political figure.

7 “Immediate family” of a senior foreign political figure typically includes the figure’s parents, siblings, spouse, children and in-laws.

A “close associate” of a senior foreign political figure is a person who is widely and publicly known to maintain an unusually close relationship with the senior foreign political figure, and includes a person who is in a position to conduct substantial domestic and international financial transactions on behalf of the senior foreign political figure.

(b) Is subject to any order, judgment or decree of any court of competent jurisdiction entered within five years of the date hereof that presently restrains or enjoins the Subscriber from engaging or continuing to engage in any conduct or practice (i) in connection with the purchase or sale of any security, (ii) involving the making of any false filing with the SEC or (iii) arising out of the conduct of the business of an underwriter, broker, dealer, municipal securities dealer, investment adviser or paid solicitor of purchasers of securities;

(c) Is subject to a final order of a state securities commission (or an agency or officer of a state performing like functions); a state authority that supervises or examines banks, savings associations or credit unions; a state insurance commission (or an agency or officer of a state performing like functions); an appropriate federal banking agency; the U.S. Commodity Futures Trading Commission; or the National Credit Union Administration that (i) as of the date hereof, bars the Subscriber from (A) association with an entity regulated by such commission, authority, agency or officer, (B) engaging in the business of securities, insurance or banking or (C) engaging in savings association or credit union activities or (ii) constitutes a final order based on a violation of any law or regulation that prohibits fraudulent, manipulative or deceptive conduct entered within ten years of the date hereof;

(d) Is subject to any order of the SEC pursuant to Section 15(b) or 15B(c) of the Exchange Act or Section 203(e) or (f) of the Investment Advisers Act of 1940, as amended (the “Advisers Act”) that as of the date hereof (i) suspends or revokes the Subscriber’s registration as a broker, dealer, municipal securities dealer or investment adviser, (ii) places limitations on the activities, functions or operations of the Subscriber or (iii) bars the Subscriber from being associated with any entity or from participating in the offering of any penny stock;

(e) Is subject to any order of the SEC entered within five years of the date hereof that presently orders the Subscriber to cease and desist from committing or causing a violation or future violation of (i) any scienter-based anti-fraud provision of the federal securities laws or (ii) Section 5 of the Securities Act;

(f) Is, as of the date hereof, suspended or expelled from membership in, or suspended or barred from association with a member of, a registered national securities exchange or a registered national or affiliated securities association for any act or omission to act constituting conduct inconsistent with just and equitable principles of trade;

(g) Has filed (as a registrant or issuer), or was or was named as an underwriter in, any registration statement or Regulation A offering statement filed with the SEC that, within five years of the date hereof, was the subject of a refusal order, stop order or order suspending the Regulation A exemption, or is presently the subject of an investigation or proceeding to determine whether a stop order or suspension order should be issued; or

(h) Is subject to a United States Postal Service false representation order entered within five years of the date hereof or is presently subject to a temporary restraining order or preliminary injunction with respect to conduct alleged by the United States Postal

Service to constitute a scheme or device for obtaining money or property through the mail by means of false representations.

(i) To the Investor's knowledge, neither Investor nor any Significant Owner is currently the subject of any threatened or pending investigation, proceeding, action or other event that, if adversely determined, would give rise to any of the events described in clauses (a)-(h) above.

20. The Investor is not a bank holding company, as defined in Section 2(a) of the Bank Holding Company Act of 1956, as amended, or a non-bank subsidiary of such bank holding company.

The Investor agrees that the foregoing representations and warranties shall be deemed to be reaffirmed by the Investor at any time the Investor purchases or otherwise acquires additional Interests of the Fund and such purchase or acquisition shall be evidence of such reaffirmation, and if any of the foregoing representations or warranties cease to be true, the Investor shall promptly notify the Fund of the facts pertaining to such changed circumstances.

B. Acknowledgments of the Investor. The Investor hereby acknowledges the following to the Manager and the Fund:

1. This Subscription Agreement is not transferable or assignable by the Investor.

2. Although the Fund and the Manager shall use their reasonable efforts to keep the information provided in the answers to this Subscription Agreement in compliance with the Fund's Confidentiality Disclosure / Privacy Policy, the Fund and the Manager may present this Subscription Agreement and the information provided in answers to it to such parties (e.g., affiliates, attorneys, auditors, administrators, brokers and regulators) as it deems necessary or advisable to facilitate the acceptance and management of the Investor's subscription for Interests including, but not limited to, in connection with anti-money laundering and similar laws, if called upon to establish the availability under any applicable law of an exemption from registration of the Interests, the compliance with applicable law and any relevant exemptions thereto by the Fund, the Manager or any of their Affiliates, or if the contents thereof are relevant to any issue in any action, suit, or proceeding to which the Fund, the Manager or their Affiliates are a party or by which they are or may be bound. The Fund may also release information about the Investor if directed to do so by the Investor, if compelled to do so by law, or in connection with any government or self-regulatory organization request or investigation.

3. At the discretion of the Manager, remedies available to the Manager in the event the Investor becomes subject to a Disqualifying Event include the waiver of all or a portion of the Investor's voting power in the Fund, the Investor's removal from the Fund, and/or the Investor's withdrawal from the Fund through the transfer or sale of its Interest in the Fund.

4. The Manager may periodically request assurance that Investor has not become subject to a Disqualifying Event at any date after the date hereof, and Investor further acknowledges and agrees that the Manager shall understand and deem the failure by Investor to

respond in writing to such requests to be an affirmation and restatement of the representations, warranties and covenants in this Subscription Agreement.

C. Covenants of the Investor. For so long as the Investor is a partner of the Fund, the Investor hereby covenants to the Manager and the Fund to do the following:

1. The Investor shall not take any action that could have an adverse effect on the availability of the exemption from registration provided, in the case of an Investor covered by Section II.A.2(a), by Regulation D promulgated under the Securities Act.

2. If the Investor is a “fund of funds” or similar investment vehicle, or is purchasing the Interest as agent, representative, intermediary/nominee or in any similar capacity for any other person, or is otherwise requested to do so by the Manager, it shall provide a copy of its AML policies to the Manager.

3. Investor will immediately notify the Manager in writing if Investor becomes subject to a Disqualifying Event at any date after the date hereof.

4. In the event that Investor becomes subject to a Disqualifying Event at any date after the date hereof, Investor shall use its best efforts to coordinate with the Manager (i) to provide documentation as reasonably requested by the Manager related to any such Disqualifying Event and (ii) to implement a remedy to address Investor’s changed circumstances such that the changed circumstances will not affect in any way the Fund’s or its affiliates’ ongoing and/or future reliance on the Rule 506 exemption under the Securities Act.

5. Notwithstanding anything else in this Subscription Agreement,

(a) If the Investor is required to adjust its tax basis in its interest in the Fund pursuant to Code section 734 or 743, or transfers part or all of its interest in the Fund in a sale or exchange that is subject to Code section 743, the Investor will promptly advise the Fund of all details relating to such adjustment or transfer that may be necessary for the Fund to comply with its obligations under Code section 734 or 743, and will reimburse the Fund for any expenses incurred by the Fund with respect to any tax basis adjustments the Fund may as a result be required to make.

(b) The Investor will provide the Fund promptly upon request by the Manager any information that the Manager may deem necessary to allow the Fund to comply with its obligation to make any basis adjustment required under Code section 734 or 743, including, without limitation, the information specified in Treasury Regulations Section 1.743-1(k)(2); and

(c) If the Fund elects to be treated as an electing investment Fund within the meaning of Code section 743(e), the Investor will cooperate with the Fund to maintain such status, will not take any action that would be inconsistent with such election and will provide the Fund and the Manager with any information necessary to allow the Fund to comply with its obligations..

D. Representations and Warranties of the Fund and the Manager. The Fund and the Manager hereby represent and warrant to the Investor that:

1. The Fund is duly organized and validly existing as a limited liability company under the laws of the State of Delaware and has all requisite power and authority to carry on its business as now conducted and as proposed to be conducted as described in the Agreement. The Manager is duly organized and validly existing as a limited liability company under the laws of the State of Delaware and has all requisite power and authority to act as Manager of the Fund and to carry out the terms of this Subscription Agreement and the Agreement.

2. The execution and delivery of this Subscription Agreement has been authorized by all necessary action on behalf of the Fund, and does not and shall not result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any provision of any partnership agreement, charter, by-laws, trust agreement, indenture, mortgage, deed of trust, credit, note or evidence of indebtedness, or any lease or other agreement, or any license, permit, franchise or certificate, regulation, law, order, writ, injunction, order or decree to which the Fund is subject, and this Subscription Agreement is a legal, valid and binding obligation of the Fund, enforceable against the Fund in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of creditors' rights generally and by general equitable principles (whether enforcement is sought by proceedings in equity or at law).

3. Neither the Fund nor anyone acting on its behalf has taken or shall take any action that would subject the issuance and sale of the Interests to the registration requirements of the Securities Act or any state securities laws.

4. Assuming the accuracy of the representations and warranties of the Members of the Fund, the Fund is excluded from the definition of an "investment company" pursuant to Section 3(c) of the 1940 Act, and thus, is not required to register, and has not registered, as an "investment company" under the 1940 Act.

5. The Fund shall not make an election pursuant to Treasury Regulations Section 301.7701-3 to be treated as an association taxable as a corporation for U.S. federal income tax purposes.

### **III. UNDERSTANDINGS**

A. The Investor hereby further understands, acknowledges and covenants with the Fund as follows:

1. The information contained in the Agreement and this Subscription Agreement is confidential and non-public, and all such information shall be kept in confidence and not disclosed to any third person (other than the Investor's advisors or representatives) for any reason, except to the extent required by applicable law or administrative or judicial process; provided, that, this obligation shall not apply to any such information (a) that is part of the public knowledge or literature and readily accessible at the date hereof, (b) that becomes part of the public knowledge or literature and readily accessible by publication (except as a result of a breach of this provision), (c) that is received from third parties (except third parties who disclose such information in violation of any confidentiality agreements or obligations entered into with the Fund) or (d) regarding the tax treatment and tax structure of the transactions contemplated by this Agreement, and all materials of any kind (including opinions or other tax analyses) related to such tax treatment

and tax structure (provided, that, this subsection (d) shall not permit any person to disclose the name of, or other information that would identify, any party to such transactions or to disclose confidential commercial information regarding such transactions).

2. The Investor shall provide promptly such information and execute and deliver such documents as may be necessary to comply with any and all laws and regulations to which the Fund may be subject.

3. The Interests have not been approved or disapproved by the SEC or by any other U.S. federal, state or non-U.S. securities commission or regulatory authority, and none of the foregoing authorities has confirmed the accuracy or determined the adequacy of this Subscription Agreement. Any representation to the contrary is a criminal offense.

4. The offering and sale of the Interests have not been and shall not be registered under the Securities Act and the regulations issued thereunder, and are being made in reliance upon U.S. federal and state exemptions for transactions not involving a public offering; and pursuant to Section 3(c)(7) of the 1940 Act, the Fund is excluded from the definition of an “investment company,” and thus, is not required to be, and has not, registered as an investment company under the 1940 Act.

5. Neither this Subscription Agreement nor any provisions hereof shall be waived, modified, discharged or terminated except by an instrument in writing signed by the party against whom any waiver, modification, discharge or termination is sought.

6. The Interests are speculative investments and involve a high degree of risk. There is no public market for the Interests, and no such public or other market is expected to develop. The transferability of the Interests is substantially restricted both by the terms of the Agreement and applicable law. Investors in the Fund have no rights to require the Interests in the Fund to be registered under the Securities Act. The Investor shall not be able to receive the benefit of the provisions of Rule 144 or 144A adopted by the SEC under the Securities Act with respect to the resale of the Interests in the Fund. Accordingly, it may not be possible for the Investor to liquidate the Investor’s investment in the Fund.

7. In making an investment decision, the Investor must rely on its own examination of the Agreement and the terms of the offering, including the merits and risks involved. The Interests have not been recommended by any U.S. federal, state or non-U.S. securities commission or regulatory authority. Furthermore, the foregoing authorities have not confirmed the accuracy or determined the adequacy of this Subscription Agreement. Any representation to the contrary is a criminal offense.

8. The Investor acknowledges that pursuant to the Agreement, the Manager and the Investment Manager are entitled to be indemnified out of the assets of the Fund against all expenses (including legal fees and disbursements), losses, liabilities, judgments or fines which the Manager or the Investment Manager may sustain or incur in or about the execution of the duties of such office or otherwise in relation thereto, that the Manager and the Investment Manager are not liable for any loss, damage or misfortune which may happen to, or be incurred by, the Fund in the execution of the duties of such office, or in relation thereto, except for the Manager’s or the Investment Manager’s own gross negligence or criminal fraud.

9. If any provision of this Subscription Agreement is invalid or unenforceable under any applicable law, then such provision shall be deemed inoperative to the extent that it may conflict therewith and shall be deemed modified to conform to such applicable law. Any provision hereof which may be held invalid or unenforceable under any applicable law shall not affect the validity or enforceability of any other provisions hereof, and to this extent the provisions hereof, shall be severable.

10. The Investor understands that in order to ensure compliance under applicable anti-money laundering laws and regulations, the Manager may require a detailed verification of the identity of a person applying for an Interest and the source of its investment funds. The Manager reserves the right to request such information as is necessary to verify the identity of an Investor and the source of its investment funds. In the event of delay or failure by the Investor to produce any information required for verification purposes, the Manager may refuse to accept the Investor's subscription until proper information has been provided.

11. The Investor covenants that it shall provide the Manager, at any time during the term of the Fund, with such information as the Manager determines to be necessary or appropriate to (a) verify compliance with the anti-money laundering regulations of any applicable jurisdiction or (b) respond to requests for information concerning the identity of the Investor from any governmental authority, self-regulatory organization or financial institution in connection with the Fund's anti-money laundering compliance procedures.

12. The Investor covenants that if any of the representations and warranties set forth in Section II(A) ceases to be true or if the Fund no longer reasonably believes that it has satisfactory evidence as to their truth, notwithstanding any other agreement to the contrary, the Fund may be obligated to freeze the Investor's investment, either by prohibiting additional investments, declining or suspending any withdrawal requests and/or segregating the assets constituting the investment in accordance with applicable regulations, or the Investor's investment may immediately be involuntarily withdrawn by the Fund, and the Fund may also be required to report such action and to disclose the Investor's identity to OFAC or any other authority. If the Fund is required to take any of the foregoing actions, the Investor covenants that it shall have no claim against the Fund, the Manager or any of their respective Affiliates, members, partners, shareholders, officers, directors, employees and agents for any form of damages as a result of any of the aforementioned actions.

#### **IV. INDEMNIFICATION**

The Investor shall indemnify and hold harmless the Fund, the Manager, Shepherd Kaplan Krochuk, LLC, and each officer, director, limited partner, member, Manager, employee, Affiliate, agent or control person of the Fund, the Manager, and Shepherd Kaplan Krochuk, LLC (collectively, the "Fund Indemnitees") from and against any and all expenses, losses, claims, damages, liabilities and actions, suits or proceedings (whether civil, criminal, administrative or investigative and whether such action, suit or proceeding is brought or initiated by the Fund or a third party) that are incurred by or threatened, pending or completed against the Fund Indemnitees or any of them (including, without limitation, legal fees and expenses, judgments, fines and amounts paid in settlement) based upon, resulting from or otherwise in respect of (i) any actual or alleged misrepresentation or misstatement of facts, or omission to represent or state facts, by or on behalf of the Investor concerning the Investor, the Investor's suitability or authority to invest or the Investor's financial

position in connection with the offering of the Interests, including, without limitation, any such misrepresentation, misstatement or omission contained in or accompanying the Investor Questionnaire or the Investor Data Sheet submitted by or on behalf of the Investor and forming a part of this Subscription Agreement, or (ii) the breach of any of the Investor's representations, warranties, covenants or agreements set forth in this Subscription Agreement.

The Manager and Shepherd Kaplan Krochuk, LLC may make, execute, record and file on its own behalf and on behalf of the Fund all instruments and other documents (including one or more deed polls in favor of categories of Indemnified Parties and/or one or more separate indemnification agreements between the Manager on behalf of itself or the Fund and individual Indemnified Parties) that the Manager deems necessary or appropriate in order to extend the benefit of the provisions of this Section to the Fund Indemnitees; provided that, such other instruments and documents authorized hereunder shall be on the same terms as provided for in this Section except as otherwise may be required by applicable law.

The reimbursement and indemnity obligations of the Investor under this Section IV shall survive notwithstanding the Fund's acceptance of the Investor as a Member and shall be in addition to any liability that the Investor may otherwise have (including, without limitation, liabilities under the Agreement) and shall be binding upon and inure to the benefit of any successors, assigns, heirs or legal representatives of any Fund Indemnitees and the Fund.

#### **V. TRUSTEE, AGENT, REPRESENTATIVE OR NOMINEE**

If the Investor is acting as trustee, agent, representative or nominee for a subscriber (a "Beneficial Owner"), the Investor understands and acknowledges that the representations, warranties and agreements made herein are made by the Investor (a) with respect to the Investor and (b) with respect to the Beneficial Owner of the Interests subscribed for hereby. The Investor further represents and warrants that it has all requisite power and authority from said Beneficial Owner to execute and perform the obligations under this Subscription Agreement. The Investor also agrees to indemnify the Fund and its directors, officers and agents for any and all costs, fees and expenses (including legal fees and disbursements) in connection with any damages resulting from the Investor's or the Beneficial Owner's misrepresentations or misstatement contained herein, or the assertion of the Investor's lack of proper authorization from the Beneficial Owner of the Interests subscribed for hereby to enter into this Subscription Agreement or perform the obligations hereof.

#### **VI. ADDITIONAL INFORMATION AND SUBSEQUENT CHANGES IN THE FOREGOING REPRESENTATIONS**

The Fund may request from the Investor such additional information as it may deem necessary to evaluate the eligibility of the Investor to acquire the Interests, and may request from time to time such information as it may deem necessary to determine the eligibility of the Investor to hold Interests or to enable the Fund to determine its compliance with applicable regulatory requirements or tax status, and the Investor shall provide such information as may reasonably be requested.

Each person acquiring Interests of the Fund must satisfy the foregoing both at the time of subscription and at all times thereafter until such person ceases to be a Member in the Fund. Accordingly, the Investor agrees to notify the Fund promptly if there is any change with respect to any of the foregoing information or representations and to provide the Fund with such further

information as the Fund may reasonably require. All of the information provided to the Fund by the Investor in this Subscription Agreement, and each representation and covenant made herein by the Investor, shall be continuing and shall apply to all subsequent subscriptions for Interests made by the Investor.

## **VII. EXECUTION OF THE AGREEMENT**

The Investor hereby (a) confirms the power of attorney granted in Section 14 of the Agreement and (b) constitutes and appoints the Manager as the Investor's true and lawful representative and attorney-in-fact, in the Investor's name, place and stead to execute, sign and file the Agreement and each agreement, certificate and other document contemplated thereby on behalf of the Investor. Pursuant to section 18-204(c) of Delaware Limited Liability Company Act, as amended, and to the fullest extent permitted by law, the power of attorney granted hereby is irrevocable and is coupled with an interest sufficient at law to support an irrevocable power and shall not be affected by the subsequent death, disability, incapacity, bankruptcy, dissolution or termination of the Investor.

## **VIII. MISCELLANEOUS**

1. This Subscription Agreement shall be governed by and construed under the laws of the State of Delaware.

2. Failure of the Fund to exercise any right or remedy under this Subscription Agreement or any other agreement between the Fund and the Investor, or otherwise, or delay by the Fund in exercising such right or remedy, shall not operate as a waiver thereof. No waiver by the Fund shall be effective unless and until it is in writing and signed by the Fund.

3. This Subscription Agreement, the Investor Questionnaire and other agreements or documents referred to herein or in the Agreement contain the entire agreement of the parties. There are no representations, covenants or other agreements except as stated or referred to herein and in such other agreements or documents.

4. This Subscription Agreement may be executed in counterparts with the same effect as if the parties executing the counterparts had all executed one counterpart.

5. Neither this Subscription Agreement nor any provisions hereof shall be waived, modified, discharged or terminated except by an instrument in writing signed by the party against whom any waiver, modification, discharge or termination is sought.

6. Except as otherwise provided herein, this Subscription Agreement shall be binding upon and inure to the benefit of the parties and their successors and permitted assigns. If the Investor is more than one person, the obligations of the Investor shall be joint and several, and the representations, covenants, agreements and acknowledgments herein contained shall be deemed to be made by and be binding upon each such person and its successors and permitted assigns.

7. The Investor acknowledges and agrees that information relating to its investment in the Fund may be received and transmitted via the Internet or fax and that the Fund does not provide any assurance that these communication methods are secure.

8. The Investor acknowledges and agrees that (a) the information provided in this Subscription Agreement may be disclosed by the Fund to auditors, counsel, regulators and other third parties that provide services to the Fund and that such disclosure may require the transmission of confidential information relating to the Investor across international borders; and (b) legal counsel to the Fund may rely on such information and the representations, warranties and covenants contained herein in connection with legal opinions delivered to the Members of the Fund.

**IX. SIGNATURE**

By executing the signature page to this Subscription Agreement, the Investor agrees to be bound by the foregoing and the Agreement.

## INVESTOR QUESTIONNAIRE

### I. GENERAL

**Please indicate which one of the following categories applies to the Investor:**

Individuals that are United States persons <sup>8</sup> (including their trusts and IRAs)	<input type="checkbox"/>
Individuals that are not United States persons (including their trusts and IRAs)	<input type="checkbox"/>
Broker-dealers	<input type="checkbox"/>
Insurance companies	<input type="checkbox"/>
Investment companies registered with the SEC	<input type="checkbox"/>
Private funds <sup>9</sup>	<input type="checkbox"/>
Non-profits	<input type="checkbox"/>
Pension plans (excluding governmental pension plans)	<input type="checkbox"/>
Banking or thrift institutions (proprietary)	<input type="checkbox"/>
State or municipal government entities <sup>10</sup> (excluding governmental pension plans)	<input type="checkbox"/>
State or municipal governmental pension plans	<input type="checkbox"/>
Sovereign wealth funds and foreign official institutions	<input type="checkbox"/>
Investors that are not United States persons and about which the foregoing beneficial ownership information is not known and cannot reasonably be obtained because the beneficial interest is held through a chain involving one or more third-party beneficiaries	<input type="checkbox"/>
Other	<input type="checkbox"/>

**Is the Investor a U.S. person for Federal income tax purposes?**

Yes  No\*

\*If you answered "No" to this question, different or additional documentation may be required.  
Please contact SKK Ventures QP Manager at +1 617-896-1600 to discuss possible options.

**Please describe the source of the money/wealth/income used for the investment and the purpose of the investment:**

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<sup>8</sup> As defined in Rule 203(m)-1 under the Investment Advisers Act of 1940, as amended, which includes any natural person that is resident in the United States.

<sup>9</sup> A “private fund” means any issuer that would be an investment company as defined in Section 3 of the Investment Company Act of 1940 but for Section 3(c)(1) or 3(c)(7) of that Act.

<sup>10</sup> “Governmental entity” means any state or political subdivision of a state, including (i) any agency, authority, or instrumentality of the State or political subdivision; (ii) a plan or pool of assets controlled by the state or political subdivision or any agency, authority, or instrumentality thereof, and (iii) any officer, agent, or employee of the state or political subdivision of any agency, authority, or instrumentality thereof, acting in their official capacity.

**Is the Investor subject to the U.S. Freedom of Information Act, 5 U.S.C. § 552 (“FOIA”), any state public records access laws, any state or other jurisdiction’s laws with similar intent or effect to the FOIA, or any other similar statutory or legal right that might result in the disclosure of confidential information relating to the Fund?**

Yes  No

If “Yes”, please indicate the relevant laws to which the Investor is subject and provide any additional explanatory information in the space below:

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**Please provide the information below related to the compliance with “pay to play” laws.**

1. If the Investor is an entity substantially owned by a government entity (e.g., a single investor vehicle) and the investment decisions of such entity are made or directed by such government entity, please provide the name of the government entity:
- 

*Please note that, if the Investor enters the name of a government entity in this Item 1, the Fund will treat the Investor as if it were the government entity for purposes of Rule 206(4)-5 (the “Pay to Play Rule”) promulgated under the Investment Advisers Act of 1940, as amended.*

2. If the Investor is (i) a government entity, (ii) acting as trustee, custodian or nominee for a beneficial owner that is a government entity, or (iii) an entity described in Item 1 above, the Investor hereby certifies that:

Other than the Pay to Play Rule, no “pay to play” or other similar compliance obligations would be imposed on the Fund, the Manager, the Investment Manager or their Affiliates in connection with the Investor’s subscription.

Please check the box to indicate that the Investor is making such certification.

*If the Investor cannot make such certification, indicate in the space below all other “pay to play” laws, rules or guidelines, or lobbyist disclosure laws or rules, the Fund, the Manager, the Investment Manager or their Affiliates, employees or third-party placement agents would be subject to in connection with the Investor’s subscription:*

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## II. ERISA QUESTIONS

### Is the Investor a “Benefit Plan Investor”?

1. The Investor is using or will use to purchase or hold the Interest funds that are assets of (a) an “employee benefit plan” (within the meaning of Section 3(3) of ERISA) subject to Part 4 of Title I of ERISA, (b) a plan to which Section 4975 of the Code applies, including (if the Investor is a natural person) an individual retirement account, or (c) an entity (including for example a fund of funds, an insurance company separate account or general account or a group trust) whose underlying assets are deemed under the U.S. Department of Labor regulations Section 2510.3-101 et. seq. or Section 2550.401c-1 to include the assets of any such employee benefit plan or plan by reason of an investment in such entity by any such employee benefit plan or plan (the persons or entities described in clauses (a), (b) and (c) being referred to herein as “Benefit Plan Investors”).

Yes No

*If the answer to Question 1 above is “No”, please skip Question 2 and proceed directly to Questions 3 and 4 below.*

*If the answer to Question 1 above is “Yes” because the Investor is an employee benefit plan or plan described in clause (a) or (b) of Question 1, please skip Question 2 and proceed directly to Questions 3 and 4 below.*

*If the answer to Question 1 above is “Yes” because the Investor is an entity described in clause (c) of Question 1, please complete Questions 2, 3 and 4.*

2. The percentage of the Investor’s investment in the Fund representing the assets of “Benefit Plan Investors” from the date hereof through and including the date on which the Investor disposes of the Interest is and will continue to be as follows:

10% or less                     greater than 10% but less than 25%                     at least 25% but not more than \_\_\_%  
(specify maximum)

### Relationship to the Fund:

3. The Investor is affiliated with the Manager or someone who provides investment advice for a fee (direct or indirect) with respect to the assets of the Fund (e.g., the Investment Manager).

Yes No

4. The assets being invested in the Fund by the Investor are managed outside of the Fund by a person unrelated to the Manager, the Investment Manager or any person affiliated with the Manager or the Investment Manager, and the Investor’s purchase of the Interests is being made at the direction of such person.

Yes No

**\*\*ENTITIES OTHER THAN TRUSTS MAY SKIP TO SECTION IV\*\***

### **III. QUESTIONS FOR INDIVIDUALS AND TRUSTS**

Please provide this additional information to help fulfil the Fund's obligations to help detect and prevent money laundering.

1. To be completed by natural persons (first named investor):

- (a) Country of residence (domicile) of the Investor:

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- (b) Country of citizenship of the Investor:

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- (c) Date of birth, city of birth, and country of birth of the Investor:

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- (d) Current occupation and business affiliation of the Investor:

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2. To be completed by natural persons (additional named investor, if jointly held):

- (a) Country of residence (domicile) of the Investor:

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- (b) Country of citizenship of the Investor:

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- (c) Date of birth, city of birth, and country of birth of the Investor:

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- (d) Current occupation and business affiliation of the Investor:

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Please indicate the basis of the Investor's status as an "accredited investor" (as defined in Regulation D promulgated under the Securities Act) and "qualified purchaser" (as defined in the Investment Company Act of 1940).

1. The Investor is a **natural person** and is an "accredited investor" because the Investor:

- a) Had an individual annual income<sup>11</sup> in each of the two most recent years in excess of \$200,000, and reasonably expects to have an individual annual income in the current year in excess of \$200,000.
- b) Had, together with the Investor's spouse, joint income in excess of \$300,000 in each of the two most recent years, and reasonably expects their joint income in the current year to exceed \$300,000.
- c) Has an individual net worth or joint net worth with the Investor's spouse in excess of \$1,000,000 (for this purpose, excluding the value of the primary residence of the Investor or the Investor's spouse).<sup>12</sup>
2. The Investor is a **natural person** and is a "qualified purchaser" because the Investor (or the beneficiary if the Investor is an Individual Retirement Account or participant if the Investor is a self-directed pension):
- a) Owns not less than \$5,000,000 in "Investments," as defined by the Securities and Exchange Commission for the purpose of Section 2(a)(51) of the 1940 Act.
3. The Investor is a **trust** and is an "accredited investor" because:
- a) The *trustee* of the trust is a "bank" as defined in Section 3(a)(2) of the Securities Act or a "savings and loan association" referred to in Section 3(a)(5)(A) of the Securities Act, and the bank controls the decisions regarding the acquisition of the Interest.
- b) The trust has total assets in excess of \$5,000,000, the trust was not formed for the specific purpose of acquiring the Interest, and the purchase of the Interest is being directed by a person who has such knowledge and experience in financial and business matters that such person is capable of evaluating the merits and risks of the purchase of the Interest.
- c) The trust does not meet either (a) or (b), however, each grantor of the trust has the power to revoke the trust and regain title to trust assets, and each such grantor satisfies the net worth or income standards for natural persons set forth in Question 1(a)-(c) above. NOTE: If the Investor checks this box (b), each grantor must complete and submit to the Fund a copy of these Investor Accreditation Questions along with an original executed signature page. If necessary, please request additional copies of the Subscription Booklet from the

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<sup>11</sup> For purposes of this Investor Questionnaire, a person's income is the amount of such person's individual adjusted gross income (as reported on a federal income tax return) increased by:

- a. any deduction for depletion of natural resources (Section 611 and others of the Code);
- b. any municipal bond interest (Section 103 of the Code); and
- c. any losses or deductions allocated to such person as a limited partner in a partnership.

<sup>12</sup> For purposes of determining "net worth," the Investor's total assets shall exclude the fair market value of the Investor's primary residence. Indebtedness secured by the primary residence up to the estimated fair market value of the primary residence is not included as a liability in the calculation of the Investor's individual net worth or joint net worth, unless any incremental borrowing is incurred in the 60 days before the date this Subscription Agreement is accepted and is not in connection with the acquisition of the primary residence, in which case, the incremental borrowing is included as a liability in such calculation. Indebtedness secured by the primary residence in excess of the estimated fair market value of the primary residence is to be included as a liability and deducted from the Investor's individual net worth or joint net worth.

Fund.

4. The Investor is a **trust** and is a “qualified purchaser” because it:
- a) (i) was not formed for the specific purpose of acquiring an interest in the Fund, (ii) each of the trustees or other persons authorized to make decisions with respect to the trust and each of the grantors thereof (and any person who has contributed assets to the trust) is an individual who, as of the admission date, owns at least \$5,000,000 in Investments and (iii) as of the admission date, has in excess of \$5,000,000 in total assets if the trust is an irrevocable trust.
  - b) is an irrevocable trust which (a) was not formed for the specific purpose of acquiring an interest in the Fund, (b) as of the admission date owns in excess of \$5,000,000 in Investments and (c) has at least two beneficiaries and all of its beneficiaries are Related Persons.<sup>13</sup>

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<sup>13</sup> “Related Persons” means individuals that are related as siblings or spouse (including former spouses) or direct lineal descendants, spouses of such persons, estates of such persons or foundations, charitable organizations or trusts established by or for the benefit of such persons.

**\*\*Individual Retirement Accounts (IRAs) Only\*\***

**Additional Representation With Respect to Investments By An Individual Retirement Account (IRA) or Self-Directed Plan**

If the Investor is an individual retirement account or annuity, including a Roth IRA (IRA), or self-directed employee benefit or “Keogh” plan, the individual who established the IRA or the individual who directed the plan’s investment in the Fund, as the case may be, the “Fiduciary”: (i) has directed the custodian or trustee of the Investor to execute this Subscription Agreement and the Agreement on the line set forth below for Authorized Signatory; and (ii) has signed below to indicate that he or she has reviewed, directed and certifies to the accuracy of the representation and warranties made by the Investor herein.

Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Name and Address of Custodian:

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By: \_\_\_\_\_

Name: \_\_\_\_\_

Position: \_\_\_\_\_

Account or other Reference Number: \_\_\_\_\_

Custodian’s Tax I.D. Number: \_\_\_\_\_

**Note to Custodian:** Please be sure to include an authorized signatory list with this completed page.

**\*\*END OF INVESTOR QUESTIONNAIRE FOR  
INDIVIDUALS AND TRUSTS\*\***

#### **IV. QUESTIONS FOR ENTITIES OTHER THAN TRUSTS**

Please provide this additional information to help fulfil the Fund's obligations to help detect and prevent money laundering.

1. Date of incorporation or formation: \_\_\_\_\_
2. Type of business of the Investor: \_\_\_\_\_
3. Office locations of Investor: \_\_\_\_\_
4. Taxable Year End: \_\_\_\_\_
5. Please provide the Investor's U.S. state or foreign country of residence for tax purposes\*:  
\_\_\_\_\_
6. Will any other person or persons (other than the Investor) have a beneficial interest in the Interest to be acquired hereunder (other than as a shareholder, partner, policy owner or other beneficial owner of equity interests in the Investor)? **NOTE: If the answer to this question is "Yes," each such person must complete and submit to the Fund a copy of these Anti-Money Laundering Questions along with an original executed signature page. If necessary, please request additional copies of the Subscription Booklet from the Fund.**

Yes  No

\* If the entity is not a "U.S. person" for U.S. federal income tax purposes, please call the SKK Ventures QP Manager, LLC at +1 617-896-1600.

**Please indicate in question 1 the basis of the Investor's status as an "accredited investor."**

1. The Investor is an entity — i.e., a corporation, partnership, limited liability company or other entity (other than a trust) — and is an "accredited investor" because:
  - a) The Investor is a corporation, partnership, limited liability company, a Massachusetts or similar business trust, or an organization described in Section 501(c)(3) of the Code, in each case not formed for the specific purpose of acquiring the Interests and with total assets in excess of \$5,000,000 as of the admission date.
  - b) The Investor is one of the following institutional investors as described in Rule 501(a) adopted by the SEC under the Securities Act: 
    - (i) A "bank" (as defined in Section 3(a)(2) of the Securities Act) or a "savings and loan association" (as defined in Section 3(a)(5)(A) of the Securities Act), whether acting in its individual or fiduciary capacity.
    - (ii) A broker or dealer registered pursuant to Section 15 of the U.S. Securities

and Exchange Act of 1934, as amended (the “Exchange Act”).

- (iii) An “insurance company” (as defined in Section 2(13) of the Securities Act).
  - (iv) An investment company registered under the 1940 Act or a “business development company” (as defined in Section 2(a)(48) of the 1940 Act).
  - (v) A Small Business Investment Company licensed by the U.S. Small Business Administration under Section 301(c) or (d) of the Small Business Investment Act of 1958, as amended.
  - (vi) A “private business development company” (as defined in Section 202(a)(22) of the Advisers Act).
  - (vii) An employee benefit plan within the meaning of Title I of ERISA, and either (a) the investment decision to purchase the Interests was made by a “plan fiduciary” (as defined in Section 3(21) of ERISA), which is either a bank, savings and loan association, insurance company or registered investment adviser, or (b) which has total assets in excess of \$5,000,000, or (c) which is a self-directed plan, with investment decisions made solely by persons, each of whom individually satisfies the net worth or income standards for natural persons set forth in Question 1 above. NOTE: To the extent that reliance is placed on clause (c), each person must complete and submit to the Fund a copy of these Accredited Investor Questions along with an original executed signature page. If necessary, please request additional copies of the Subscription Booklet from the Fund.
  - (viii) A plan established and maintained by a state, its political subdivisions, or any agency or instrumentality of a state or its political subdivisions, for the benefit of its employees with total assets in excess of \$5,000,000.
- c) Each shareholder, partner, member or other equity owner of the Investor, as the case may be, satisfies the accredited-investor standards for natural persons or entities, as the case may be. *NOTE: If the Investor checks this box 1h, each equity owner of the Investor’s securities must complete and submit to the Fund a copy of these “Accredited Investor” questions along with an original executed signature page. If necessary, please request additional copies of the Subscription Booklet from the Fund.*

**Please indicate in question 2 the basis of the Investor’s status as a “qualified purchaser.”**

2. The Investor is an entity — i.e., a corporation, partnership, limited liability company or other entity (other than a trust) — and is a “qualified purchaser” because it is:
  - a) a corporation, Massachusetts or similar business trust, partnership or limited liability company, that (a) was not formed for the specific purpose of acquiring an interest in the Fund, (b) as of the admission date owns at least \$5,000,000 in Investments, and (c) has at least two equity owners and all of its equity owners are

Related Persons.<sup>14</sup>

- b) a corporation, Massachusetts or similar business trust, partnership or limited liability company that (a) was not formed for the specific purpose of acquiring an interest in the Fund, (b) as of the admission date owns at least \$25,000,000 in Investments, and (c) each beneficial owner of such entity that acquired its interest in the entity prior to April 30, 1996 has consented to the treatment of the entity as a "qualified purchaser" within the meaning of Section 2(a)(51) of the Investment Company Act of 1940, as amended (the "1940 Act"), and no such beneficial owner "controls" the entity within the meaning of Section 2(a)(51).
- c) a charitable corporation that (a) was not formed for the specific purpose of acquiring an interest in the Fund; (b) as of the admission date owns at least \$5,000,000 in Investments, and (c) has had all assets contributed to it by two or more natural persons who are Related Persons.
- d) a charitable corporation that (a) was not formed for the specific purpose of acquiring an interest in the Fund, (b) as to which each person authorized to make decisions with respect to the entity, and each person who has contributed assets to the entity, is an individual who owns at least \$5,000,000 in Investments, and (c) as of the admission date has in excess of \$5,000,000 in total assets.
- e) an entity, acting for its own account or the accounts of other qualified purchasers, who in the aggregate owns or invests on a discretionary basis not less than \$25,000,000 in Investments.
- f) Each shareholder, partner, member or other equity owner of the Investor, as the case may be, satisfies the qualified-purchaser standards for natural persons or entities, as the case may be. *NOTE: If the Investor checks this box 2n, each equity owner of the Investor's securities must complete and submit to the Fund a copy of these "Qualified Purchaser" questions along with an original executed signature page. If necessary, please request additional copies of the Subscription Booklet from the Fund.*

**Please indicate in question 3 whether the Investor is registered as an "investment company" or a private fund relying on Section 3(c)(1) or Section 3(c)(7) of the 1940 Act.**

3. Is the Investor an investment fund registered as an "investment company" under the 1940 Act (a "Registered Fund"), or an affiliate of a Registered Fund, or a person controlling, controlled by or under common control with a Registered Fund?

Yes  No

Investment Company Act No.: 811-\_\_\_\_\_

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"Related Persons" means individuals that are related as siblings or spouse (including former spouses) or direct lineal descendants, spouses of such persons, estates of such persons or foundations, charitable organizations or trusts established by or for the benefit of such persons.

4. Is the Investor relying in an exclusion from the definition of an investment company pursuant to Section 3(c)(1) or Section 3(c)(7)? (Check all that apply)

Section 3(c)(1):  Yes  No

Section 3(c)(7):  Yes  No

**\*\*END OF INVESTOR QUESTIONNAIRE\*\***

## SIGNATURE PAGE

Your signature on this signature page evidences your agreement to be bound by the Agreement and this Subscription Agreement.

\$ \_\_\_\_\_  
Subscription Amount

\_\_\_\_\_  
Date

### INDIVIDUALS:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name  
(Please type or print)

\_\_\_\_\_  
Name of Spouse if Co-Owner  
(Please type or print)

\_\_\_\_\_  
Signature of Spouse if Co-Owner

### ENTITIES

\_\_\_\_\_  
Name of Entity  
(Please type or print)

By: \_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Authorized Signatory  
(Please type or print)

\_\_\_\_\_  
Title of Authorized Signatory  
(Please type or print)

### ACCEPTED AND AGREED

Date: \_\_\_\_\_

### **SKK VENTURES QP, LLC**

By: SKK Ventures QP Manager, LLC, its  
*Manager*

By: \_\_\_\_\_  
Name:  
Title:

# Shepherd Kaplan Krochuk, LLC

## Confidentiality Disclosure / Privacy Policy

Shepherd Kaplan Krochuk, LLC strives to maintain high standards of trust and fiduciary duty in the safekeeping and use of non-public personal and financial data of our prospective and current clients and investors in the private funds ("Non-Public Personal Information"). To that end, we remain committed to maintaining the confidentiality of Non-Public Personal Information we collect. This policy applies to Shepherd Kaplan Krochuk, LLC, its affiliates, and the related private investment funds it manages (collectively "SKK"). We follow the privacy policies and practices set forth below:

1. We do not sell any Non-Public Personal Information to any individual, company or group, or provide such information to nonaffiliates except as described herein.
2. We may receive Non-Public Personal Information from prospective and current clients and investors themselves, and from financial and information service and consumer reporting firms when clients engage our services or investors invest in our funds. We also exchange Non-Public Personal Information with custodians, investment managers, brokers, administrators and other nonaffiliated financial service providers as required or permitted by law in the course of providing services for the client or investor.
3. All Non-Public Personal Information is treated confidentially. Such information may only be disclosed when the disclosure is consistent with the firm's policy or upon direction from the client or investor. SKK does not share Non-Public Personal Information with any unaffiliated third parties, except with the consent of the client or investor, or in the following circumstances:
  - As necessary to provide the services that the client or investor has requested or authorized, or to maintain and service the account of the client or investor;
  - As required by regulatory authorities or law enforcement officials who have jurisdiction over SKK, or as otherwise required by any applicable law, including subpoena or other judicial or arbitral process; and
  - To the extent reasonably necessary to prevent fraud, unauthorized transactions, claims or other liability.
  - SKK may use nonpublic personal information to market their own products and services to clients and investors.
4. We restrict access to our Non-Public Personal Information to only those SKK employees or agents who need to know that information to provide service to clients and investors.
5. We maintain physical, electronic, and procedural safeguards to protect Non-Public Personal Information.
6. Employees or agents with access to Non-Public Personal Information may not use or disclose such information except for business use. All of our employees or agents are required to safeguard such information as specified in their signed agreements with our firm.
7. If there is a need to dispose of dated Non-Public Personal Information, we require our employees or agents to destroy, not discard, the data.
8. We continue to evaluate our efforts to protect Non-Public Personal Information and make every reasonable effort to keep our privacy policy and practices accurate and current.
9. These policies apply to natural persons who are deemed to be consumers or customers under applicable federal privacy regulations.

**ACKNOWLEDGEMENT OF RECEIPT  
OF  
NOTICE OF PRIVACY POLICY**

The undersigned acknowledges receipt of a Confidentiality Disclosure / Privacy Policy which states SKK's policy and procedures relating to nonpublic personal information that it receives from natural persons who may be deemed to be customers or consumers.

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Authorized Signature

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Print name (and title if Investor is an Entity)

## **CONSENT FOR ELECTRONIC COMMUNICATIONS AND DELIVERY OF DOCUMENTS**

Please indicate your preference for electronic or hard copy delivery of Documents, as defined and further described below.

If you consent to electronic delivery:

- Documents will be sent by email or by posting to a pass-word protected web site.
- Documents include account statements, reports, privacy notices, year-end tax documents including Schedules K-1 if any, offering materials, LLC agreements, subscription agreements, Forms ADV, ERISA notices and other communications relating to SKK and/or your investments.
- Documents may be sent by SKK, its related private investment funds, their auditors, administrators and others that provide services on their behalf.
- Electronic delivery will be in lieu of delivery of hard copies by mail but you are welcome to request a back up hard copy of any document at any time by contacting SKK Investor Relations.<sup>15</sup>
- You may withdraw your consent at any time by contacting SKK Investor Relations by email or regular mail.
- You are required to update SKK Investor Relations with any changes to your email address.
- You will need a computer, printer and Adobe Acrobat software to access, print and retain electronic Documents.
- If you receive a Schedule K-1, you may be required to print and attach it to a federal, state or local income tax return.
- Please note that e-mail messages are not secure and may contain computer viruses or other defects, may not be accurately replicated on other systems, or may be intercepted, deleted or interfered with without the knowledge of the sender or the intended recipient. The Fund and the Manager of the Fund make no warranties in relation to these matters. The Fund and/or the Manager of the Fund reserves the right to intercept, monitor and retain e-mail messages to and from its systems as permitted by applicable law. If an Investor has any doubts about the authenticity of an e-mail purportedly sent by the Fund and/or the Manager of the Fund, the Investor is required to contact the purported sender immediately. The Manager of the Fund's acceptance of the Investor's subscription is not conditioned on consent to electronic delivery of Documents. The Investor agrees that it will be solely responsible for notifying the Fund in writing of any change in its e-mail address and that the Fund may not seek to verify or confirm the Investor's e-mail address as provided. If the Investor does not have access to the internet or e-mail, the Investor should not consent to electronic delivery of Documents. The Investor may revoke its consent to electronic delivery of Documents at any time upon written notice to the Fund and receive all Documents in paper format. The Investor may also request delivery of a paper copy of any Documents by contacting the Fund.

### Indicate Your Preference

Please deliver all documents electronically                    (Check here) \_\_\_\_\_ )  
or

Please deliver all documents by hard copy                    (Check here) \_\_\_\_\_ )

Print your name (and title if Investor is an entity): \_\_\_\_\_

Sign your name: \_\_\_\_\_ Date: \_\_\_\_\_

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<sup>15</sup> Investor Relations, Shepherd Kaplan Krochuk, LLC, 125 Summer Street, Floor 22, Boston, MA 02110, Tel: 617-226-1700, Fax: 617-695-3880, Email: investorrelations@skk-llc.com

## **NOTICE ABOUT YOUR CHOICE TO LIMIT MARKETING**

Shepherd Kaplan Krochuk, LLC (“Adviser”) serves as investment adviser to a number of private investment funds which the Adviser has sponsored (“SKK Private Funds”). The SKK Private Funds are providing this notice to individuals who have an interest in the Funds, including investors and others.

Federal law gives you the right to limit some but not all marketing from the Adviser. Federal law also requires that this notice is provided to tell you about your choice to limit marketing from the Adviser.

From time to time, the Adviser may want to send you marketing information about, for example, a new strategy or service that is available. However, you may limit the Adviser from marketing the Adviser’s products or services to you based on your personal information that the Adviser receives from the SKK Private Funds. If you do not wish to receive such marketing material from the Adviser, please tell us:

- By calling: SKK Investor Relations at 617-896-1600
- By sending an email to: [investorrelations@skk-llc.com](mailto:investorrelations@skk-llc.com)
- By sending a fax to: SKK Investor Relations at 617-896-1650
- By mail: Check here \_\_\_\_\_ to advise us not to allow the Adviser to use personal information to market to you. Provide your name \_\_\_\_\_ and contact information \_\_\_\_\_. Then, send this form back to:

Investor Relations  
Shepherd Kaplan Krochuk, LLC  
125 Summer Street, Floor 22  
Boston, MA 02110

Your choice to limit marketing offers from the Adviser will apply until you tell us to change your choice.

If you have any questions, please let SKK Investor Relations know; contact information is above. Thank you.

**IRS FORM W-9**

**Request for Taxpayer Identification Number and Certification**► Go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9) for instructions and the latest information.

Give Form to the requester. Do not send to the IRS.

Print or type.  
**See Specific Instructions on page 3.**

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.						
2 Business name/disregarded entity name, if different from above						
3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only <b>one</b> of the following seven boxes.						
<input type="checkbox"/> Individual/sole proprietor or single-member LLC <input type="checkbox"/> C Corporation <input type="checkbox"/> S Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Trust/estate <input type="checkbox"/> Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ► _____ <b>Note:</b> Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is <b>not</b> disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. <input type="checkbox"/> Other (see instructions) ► _____						
5 Address (number, street, and apt. or suite no.) See instructions.				Requester's name and address (optional)		
6 City, state, and ZIP code						
7 List account number(s) here (optional)						

**Part I Taxpayer Identification Number (TIN)**

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

**Note:** If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number											
			-				-				

or

Employer identification number											
			-								

**Part II Certification**

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

**Certification instructions.** You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

<b>Sign Here</b>	Signature of U.S. person ►
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Date ►

**General Instructions**

Section references are to the Internal Revenue Code unless otherwise noted.

**Future developments.** For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to [www.irs.gov/FormW9](http://www.irs.gov/FormW9).

**Purpose of Form**

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

*If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, later.*

By signing the filled-out form, you:

1. Certify that the TIN you are giving is correct (or you are waiting for a number to be issued),
2. Certify that you are not subject to backup withholding, or
3. Claim exemption from backup withholding if you are a U.S. exempt payee. If applicable, you are also certifying that as a U.S. person, your allocable share of any partnership income from a U.S. trade or business is not subject to the withholding tax on foreign partners' share of effectively connected income, and
4. Certify that FATCA code(s) entered on this form (if any) indicating that you are exempt from the FATCA reporting, is correct. See *What is FATCA reporting*, later, for further information.

**Note:** If you are a U.S. person and a requester gives you a form other than Form W-9 to request your TIN, you must use the requester's form if it is substantially similar to this Form W-9.

**Definition of a U.S. person.** For federal tax purposes, you are considered a U.S. person if you are:

- An individual who is a U.S. citizen or U.S. resident alien;
- A partnership, corporation, company, or association created or organized in the United States or under the laws of the United States;
- An estate (other than a foreign estate); or
- A domestic trust (as defined in Regulations section 301.7701-7).

**Special rules for partnerships.** Partnerships that conduct a trade or business in the United States are generally required to pay a withholding tax under section 1446 on any foreign partners' share of effectively connected taxable income from such business. Further, in certain cases where a Form W-9 has not been received, the rules under section 1446 require a partnership to presume that a partner is a foreign person, and pay the section 1446 withholding tax. Therefore, if you are a U.S. person that is a partner in a partnership conducting a trade or business in the United States, provide Form W-9 to the partnership to establish your U.S. status and avoid section 1446 withholding on your share of partnership income.

In the cases below, the following person must give Form W-9 to the partnership for purposes of establishing its U.S. status and avoiding withholding on its allocable share of net income from the partnership conducting a trade or business in the United States.

- In the case of a disregarded entity with a U.S. owner, the U.S. owner of the disregarded entity and not the entity;
- In the case of a grantor trust with a U.S. grantor or other U.S. owner, generally, the U.S. grantor or other U.S. owner of the grantor trust and not the trust; and
- In the case of a U.S. trust (other than a grantor trust), the U.S. trust (other than a grantor trust) and not the beneficiaries of the trust.

**Foreign person.** If you are a foreign person or the U.S. branch of a foreign bank that has elected to be treated as a U.S. person, do not use Form W-9. Instead, use the appropriate Form W-8 or Form 8233 (see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities).

**Nonresident alien who becomes a resident alien.** Generally, only a nonresident alien individual may use the terms of a tax treaty to reduce or eliminate U.S. tax on certain types of income. However, most tax treaties contain a provision known as a "saving clause." Exceptions specified in the saving clause may permit an exemption from tax to continue for certain types of income even after the payee has otherwise become a U.S. resident alien for tax purposes.

If you are a U.S. resident alien who is relying on an exception contained in the saving clause of a tax treaty to claim an exemption from U.S. tax on certain types of income, you must attach a statement to Form W-9 that specifies the following five items.

1. The treaty country. Generally, this must be the same treaty under which you claimed exemption from tax as a nonresident alien.
2. The treaty article addressing the income.
3. The article number (or location) in the tax treaty that contains the saving clause and its exceptions.
4. The type and amount of income that qualifies for the exemption from tax.
5. Sufficient facts to justify the exemption from tax under the terms of the treaty article.

**Example.** Article 20 of the U.S.-China income tax treaty allows an exemption from tax for scholarship income received by a Chinese student temporarily present in the United States. Under U.S. law, this student will become a resident alien for tax purposes if his or her stay in the United States exceeds 5 calendar years. However, paragraph 2 of the first Protocol to the U.S.-China treaty (dated April 30, 1984) allows the provisions of Article 20 to continue to apply even after the Chinese student becomes a resident alien of the United States. A Chinese student who qualifies for this exception (under paragraph 2 of the first protocol) and is relying on this exception to claim an exemption from tax on his or her scholarship or fellowship income would attach to Form W-9 a statement that includes the information described above to support that exemption.

If you are a nonresident alien or a foreign entity, give the requester the appropriate completed Form W-8 or Form 8233.

## Backup Withholding

**What is backup withholding?** Persons making certain payments to you must under certain conditions withhold and pay to the IRS 24% of such payments. This is called "backup withholding." Payments that may be subject to backup withholding include interest, tax-exempt interest, dividends, broker and barter exchange transactions, rents, royalties, nonemployee pay, payments made in settlement of payment card and third party network transactions, and certain payments from fishing boat operators. Real estate transactions are not subject to backup withholding.

You will not be subject to backup withholding on payments you receive if you give the requester your correct TIN, make the proper certifications, and report all your taxable interest and dividends on your tax return.

### Payments you receive will be subject to backup withholding if:

1. You do not furnish your TIN to the requester,
2. You do not certify your TIN when required (see the instructions for Part II for details),
3. The IRS tells the requester that you furnished an incorrect TIN,
4. The IRS tells you that you are subject to backup withholding because you did not report all your interest and dividends on your tax return (for reportable interest and dividends only), or
5. You do not certify to the requester that you are not subject to backup withholding under 4 above (for reportable interest and dividend accounts opened after 1983 only).

Certain payees and payments are exempt from backup withholding. See *Exempt payee code*, later, and the separate Instructions for the Requester of Form W-9 for more information.

Also see *Special rules for partnerships*, earlier.

## What is FATCA Reporting?

The Foreign Account Tax Compliance Act (FATCA) requires a participating foreign financial institution to report all United States account holders that are specified United States persons. Certain payees are exempt from FATCA reporting. See *Exemption from FATCA reporting code*, later, and the Instructions for the Requester of Form W-9 for more information.

## Updating Your Information

You must provide updated information to any person to whom you claimed to be an exempt payee if you are no longer an exempt payee and anticipate receiving reportable payments in the future from this person. For example, you may need to provide updated information if you are a C corporation that elects to be an S corporation, or if you no longer are tax exempt. In addition, you must furnish a new Form W-9 if the name or TIN changes for the account; for example, if the grantor of a grantor trust dies.

## Penalties

**Failure to furnish TIN.** If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

**Civil penalty for false information with respect to withholding.** If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

**Criminal penalty for falsifying information.** Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

**Misuse of TINs.** If the requester discloses or uses TINs in violation of federal law, the requester may be subject to civil and criminal penalties.

## Specific Instructions

### Line 1

You must enter one of the following on this line; **do not** leave this line blank. The name should match the name on your tax return.

If this Form W-9 is for a joint account (other than an account maintained by a foreign financial institution (FFI)), list first, and then circle, the name of the person or entity whose number you entered in Part I of Form W-9. If you are providing Form W-9 to an FFI to document a joint account, each holder of the account that is a U.S. person must provide a Form W-9.

a. **Individual.** Generally, enter the name shown on your tax return. If you have changed your last name without informing the Social Security Administration (SSA) of the name change, enter your first name, the last name as shown on your social security card, and your new last name.

**Note: ITIN applicant:** Enter your individual name as it was entered on your Form W-7 application, line 1a. This should also be the same as the name you entered on the Form 1040/1040A/1040EZ you filed with your application.

b. **Sole proprietor or single-member LLC.** Enter your individual name as shown on your 1040/1040A/1040EZ on line 1. You may enter your business, trade, or "doing business as" (DBA) name on line 2.

c. **Partnership, LLC that is not a single-member LLC, C corporation, or S corporation.** Enter the entity's name as shown on the entity's tax return on line 1 and any business, trade, or DBA name on line 2.

d. **Other entities.** Enter your name as shown on required U.S. federal tax documents on line 1. This name should match the name shown on the charter or other legal document creating the entity. You may enter any business, trade, or DBA name on line 2.

e. **Disregarded entity.** For U.S. federal tax purposes, an entity that is disregarded as an entity separate from its owner is treated as a "disregarded entity." See Regulations section 301.7701-2(c)(2)(ii). Enter the owner's name on line 1. The name of the entity entered on line 1 should never be a disregarded entity. The name on line 1 should be the name shown on the income tax return on which the income should be reported. For example, if a foreign LLC that is treated as a disregarded entity for U.S. federal tax purposes has a single owner that is a U.S. person, the U.S. owner's name is required to be provided on line 1. If the direct owner of the entity is also a disregarded entity, enter the first owner that is not disregarded for federal tax purposes. Enter the disregarded entity's name on line 2, "Business name/disregarded entity name." If the owner of the disregarded entity is a foreign person, the owner must complete an appropriate Form W-8 instead of a Form W-9. This is the case even if the foreign person has a U.S. TIN.

### Line 2

If you have a business name, trade name, DBA name, or disregarded entity name, you may enter it on line 2.

### Line 3

Check the appropriate box on line 3 for the U.S. federal tax classification of the person whose name is entered on line 1. Check only one box on line 3.

IF the entity/person on line 1 is a(n) . . .	THEN check the box for . . .
• Corporation	Corporation
• Individual • Sole proprietorship, or • Single-member limited liability company (LLC) owned by an individual and disregarded for U.S. federal tax purposes.	Individual/sole proprietor or single-member LLC
• LLC treated as a partnership for U.S. federal tax purposes, • LLC that has filed Form 8832 or 2553 to be taxed as a corporation, or • LLC that is disregarded as an entity separate from its owner but the owner is another LLC that is not disregarded for U.S. federal tax purposes.	Limited liability company and enter the appropriate tax classification. (P= Partnership; C= C corporation; or S= S corporation)
• Partnership	Partnership
• Trust/estate	Trust/estate

### Line 4, Exemptions

If you are exempt from backup withholding and/or FATCA reporting, enter in the appropriate space on line 4 any code(s) that may apply to you.

#### Exempt payee code.

- Generally, individuals (including sole proprietors) are not exempt from backup withholding.
- Except as provided below, corporations are exempt from backup withholding for certain payments, including interest and dividends.
- Corporations are not exempt from backup withholding for payments made in settlement of payment card or third party network transactions.
- Corporations are not exempt from backup withholding with respect to attorneys' fees or gross proceeds paid to attorneys, and corporations that provide medical or health care services are not exempt with respect to payments reportable on Form 1099-MISC.

The following codes identify payees that are exempt from backup withholding. Enter the appropriate code in the space in line 4.

1—An organization exempt from tax under section 501(a), any IRA, or a custodial account under section 403(b)(7) if the account satisfies the requirements of section 401(f)(2)

2—The United States or any of its agencies or instrumentalities

3—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

4—A foreign government or any of its political subdivisions, agencies, or instrumentalities

5—A corporation

6—A dealer in securities or commodities required to register in the United States, the District of Columbia, or a U.S. commonwealth or possession

7—A futures commission merchant registered with the Commodity Futures Trading Commission

8—A real estate investment trust

9—An entity registered at all times during the tax year under the Investment Company Act of 1940

10—A common trust fund operated by a bank under section 584(a)

11—A financial institution

12—A middleman known in the investment community as a nominee or custodian

13—A trust exempt from tax under section 664 or described in section 4947

The following chart shows types of payments that may be exempt from backup withholding. The chart applies to the exempt payees listed above, 1 through 13.

<b>IF the payment is for . . .</b>	<b>THEN the payment is exempt for . . .</b>
Interest and dividend payments	All exempt payees except for 7
Broker transactions	Exempt payees 1 through 4 and 6 through 11 and all C corporations. S corporations must not enter an exempt payee code because they are exempt only for sales of noncovered securities acquired prior to 2012.
Barter exchange transactions and patronage dividends	Exempt payees 1 through 4
Payments over \$600 required to be reported and direct sales over \$5,000 <sup>1</sup>	Generally, exempt payees 1 through 5 <sup>2</sup>
Payments made in settlement of payment card or third party network transactions	Exempt payees 1 through 4

<sup>1</sup> See Form 1099-MISC, Miscellaneous Income, and its instructions.

<sup>2</sup> However, the following payments made to a corporation and reportable on Form 1099-MISC are not exempt from backup withholding: medical and health care payments, attorneys' fees, gross proceeds paid to an attorney reportable under section 6045(f), and payments for services paid by a federal executive agency.

**Exemption from FATCA reporting code.** The following codes identify payees that are exempt from reporting under FATCA. These codes apply to persons submitting this form for accounts maintained outside of the United States by certain foreign financial institutions. Therefore, if you are only submitting this form for an account you hold in the United States, you may leave this field blank. Consult with the person requesting this form if you are uncertain if the financial institution is subject to these requirements. A requester may indicate that a code is not required by providing you with a Form W-9 with "Not Applicable" (or any similar indication) written or printed on the line for a FATCA exemption code.

A—An organization exempt from tax under section 501(a) or any individual retirement plan as defined in section 7701(a)(37)

B—The United States or any of its agencies or instrumentalities

C—A state, the District of Columbia, a U.S. commonwealth or possession, or any of their political subdivisions or instrumentalities

D—A corporation the stock of which is regularly traded on one or more established securities markets, as described in Regulations section 1.1472-1(c)(1)(i)

E—A corporation that is a member of the same expanded affiliated group as a corporation described in Regulations section 1.1472-1(c)(1)(i)

F—A dealer in securities, commodities, or derivative financial instruments (including notional principal contracts, futures, forwards, and options) that is registered as such under the laws of the United States or any state

G—A real estate investment trust

H—A regulated investment company as defined in section 851 or an entity registered at all times during the tax year under the Investment Company Act of 1940

I—A common trust fund as defined in section 584(a)

J—A bank as defined in section 581

K—A broker

L—A trust exempt from tax under section 664 or described in section 4947(a)(1)

M—A tax exempt trust under a section 403(b) plan or section 457(g) plan

**Note:** You may wish to consult with the financial institution requesting this form to determine whether the FATCA code and/or exempt payee code should be completed.

### Line 5

Enter your address (number, street, and apartment or suite number). This is where the requester of this Form W-9 will mail your information returns. If this address differs from the one the requester already has on file, write NEW at the top. If a new address is provided, there is still a chance the old address will be used until the payor changes your address in their records.

### Line 6

Enter your city, state, and ZIP code.

## Part I. Taxpayer Identification Number (TIN)

**Enter your TIN in the appropriate box.** If you are a resident alien and you do not have and are not eligible to get an SSN, your TIN is your IRS individual taxpayer identification number (ITIN). Enter it in the social security number box. If you do not have an ITIN, see *How to get a TIN* below.

If you are a sole proprietor and you have an EIN, you may enter either your SSN or EIN.

If you are a single-member LLC that is disregarded as an entity separate from its owner, enter the owner's SSN (or EIN, if the owner has one). Do not enter the disregarded entity's EIN. If the LLC is classified as a corporation or partnership, enter the entity's EIN.

**Note:** See *What Name and Number To Give the Requester*, later, for further clarification of name and TIN combinations.

**How to get a TIN.** If you do not have a TIN, apply for one immediately. To apply for an SSN, get Form SS-5, Application for a Social Security Card, from your local SSA office or get this form online at [www.SSA.gov](http://www.SSA.gov). You may also get this form by calling 1-800-772-1213. Use Form W-7, Application for IRS Individual Taxpayer Identification Number, to apply for an ITIN, or Form SS-4, Application for Employer Identification Number, to apply for an EIN. You can apply for an EIN online by accessing the IRS website at [www.irs.gov/Businesses](http://www.irs.gov/Businesses) and clicking on Employer Identification Number (EIN) under Starting a Business. Go to [www.irs.gov/Forms](http://www.irs.gov/Forms) to view, download, or print Form W-7 and/or Form SS-4. Or, you can go to [www.irs.gov/OrderForms](http://www.irs.gov/OrderForms) to place an order and have Form W-7 and/or SS-4 mailed to you within 10 business days.

If you are asked to complete Form W-9 but do not have a TIN, apply for a TIN and write "Applied For" in the space for the TIN, sign and date the form, and give it to the requester. For interest and dividend payments, and certain payments made with respect to readily tradable instruments, generally you will have 60 days to get a TIN and give it to the requester before you are subject to backup withholding on payments. The 60-day rule does not apply to other types of payments. You will be subject to backup withholding on all such payments until you provide your TIN to the requester.

**Note:** Entering "Applied For" means that you have already applied for a TIN or that you intend to apply for one soon.

**Caution:** A disregarded U.S. entity that has a foreign owner must use the appropriate Form W-8.

## Part II. Certification

To establish to the withholding agent that you are a U.S. person, or resident alien, sign Form W-9. You may be requested to sign by the withholding agent even if item 1, 4, or 5 below indicates otherwise.

For a joint account, only the person whose TIN is shown in Part I should sign (when required). In the case of a disregarded entity, the person identified on line 1 must sign. Exempt payees, see *Exempt payee code*, earlier.

**Signature requirements.** Complete the certification as indicated in items 1 through 5 below.

**1. Interest, dividend, and barter exchange accounts opened before 1984 and broker accounts considered active during 1983.** You must give your correct TIN, but you do not have to sign the certification.

**2. Interest, dividend, broker, and barter exchange accounts opened after 1983 and broker accounts considered inactive during 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

**3. Real estate transactions.** You must sign the certification. You may cross out item 2 of the certification.

**4. Other payments.** You must give your correct TIN, but you do not have to sign the certification unless you have been notified that you have previously given an incorrect TIN. "Other payments" include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services (including payments to corporations), payments to a nonemployee for services, payments made in settlement of payment card and third party network transactions, payments to certain fishing boat crew members and fishermen, and gross proceeds paid to attorneys (including payments to corporations).

**5. Mortgage interest paid by you, acquisition or abandonment of secured property, cancellation of debt, qualified tuition program payments (under section 529), ABLE accounts (under section 529A), IRA, Coverdell ESA, Archer MSA or HSA contributions or distributions, and pension distributions.** You must give your correct TIN, but you do not have to sign the certification.

## What Name and Number To Give the Requester

For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account) other than an account maintained by an FFI	The actual owner of the account or, if combined funds, the first individual on the account <sup>1</sup>
3. Two or more U.S. persons (joint account maintained by an FFI)	Each holder of the account
4. Custodial account of a minor (Uniform Gift to Minors Act)	The minor <sup>2</sup>
5. a. The usual revocable savings trust (grantor is also trustee) b. So-called trust account that is not a legal or valid trust under state law	The grantor-trustee <sup>1</sup>
6. Sole proprietorship or disregarded entity owned by an individual	The actual owner <sup>1</sup>
7. Grantor trust filing under Optional Form 1099 Filing Method 1 (see Regulations section 1.671-4(b)(2)(i)(A))	The owner <sup>3</sup>
	The grantor*
For this type of account:	Give name and EIN of:
8. Disregarded entity not owned by an individual	The owner
9. A valid trust, estate, or pension trust	Legal entity <sup>4</sup>
10. Corporation or LLC electing corporate status on Form 8832 or Form 2553	The corporation
11. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
12. Partnership or multi-member LLC	The partnership
13. A broker or registered nominee	The broker or nominee

For this type of account:	Give name and EIN of:
14. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district, or prison) that receives agricultural program payments	The public entity
15. Grantor trust filing under the Form 1041 Filing Method or the Optional Form 1099 Filing Method 2 (see Regulations section 1.671-4(b)(2)(i)(B))	The trust

<sup>1</sup> List first and circle the name of the person whose number you furnish. If only one person on a joint account has an SSN, that person's number must be furnished.

<sup>2</sup> Circle the minor's name and furnish the minor's SSN.

<sup>3</sup> You must show your individual name and you may also enter your business or DBA name on the "Business name/disregarded entity" name line. You may use either your SSN or EIN (if you have one), but the IRS encourages you to use your SSN.

<sup>4</sup> List first and circle the name of the trust, estate, or pension trust. (Do not furnish the TIN of the personal representative or trustee unless the legal entity itself is not designated in the account title.) Also see *Special rules for partnerships*, earlier.

**\*Note:** The grantor also must provide a Form W-9 to trustee of trust.

**Note:** If no name is circled when more than one name is listed, the number will be considered to be that of the first name listed.

## Secure Your Tax Records From Identity Theft

Identity theft occurs when someone uses your personal information such as your name, SSN, or other identifying information, without your permission, to commit fraud or other crimes. An identity thief may use your SSN to get a job or may file a tax return using your SSN to receive a refund.

To reduce your risk:

- Protect your SSN,
- Ensure your employer is protecting your SSN, and
- Be careful when choosing a tax preparer.

If your tax records are affected by identity theft and you receive a notice from the IRS, respond right away to the name and phone number printed on the IRS notice or letter.

If your tax records are not currently affected by identity theft but you think you are at risk due to a lost or stolen purse or wallet, questionable credit card activity or credit report, contact the IRS Identity Theft Hotline at 1-800-908-4490 or submit Form 14039.

For more information, see Pub. 5027, Identity Theft Information for Taxpayers.

Victims of identity theft who are experiencing economic harm or a systemic problem, or are seeking help in resolving tax problems that have not been resolved through normal channels, may be eligible for Taxpayer Advocate Service (TAS) assistance. You can reach TAS by calling the TAS toll-free case intake line at 1-877-777-4778 or TTY/TDD 1-800-829-4059.

### Protect yourself from suspicious emails or phishing schemes.

Phishing is the creation and use of email and websites designed to mimic legitimate business emails and websites. The most common act is sending an email to a user falsely claiming to be an established legitimate enterprise in an attempt to scam the user into surrendering private information that will be used for identity theft.

The IRS does not initiate contacts with taxpayers via emails. Also, the IRS does not request personal detailed information through email or ask taxpayers for the PIN numbers, passwords, or similar secret access information for their credit card, bank, or other financial accounts.

If you receive an unsolicited email claiming to be from the IRS, forward this message to [phishing@irs.gov](mailto:phishing@irs.gov). You may also report misuse of the IRS name, logo, or other IRS property to the Treasury Inspector General for Tax Administration (TIGTA) at 1-800-366-4484. You can forward suspicious emails to the Federal Trade Commission at [spam@uce.gov](mailto:spam@uce.gov) or report them at [www.ftc.gov/complaint](http://www.ftc.gov/complaint). You can contact the FTC at [www.ftc.gov/idtheft](http://www.ftc.gov/idtheft) or 877-IDTHEFT (877-438-4338). If you have been the victim of identity theft, see [www.IdentityTheft.gov](http://www.IdentityTheft.gov) and Pub. 5027.

Visit [www.irs.gov/IdentityTheft](http://www.irs.gov/IdentityTheft) to learn more about identity theft and how to reduce your risk.

## Privacy Act Notice

Section 6109 of the Internal Revenue Code requires you to provide your correct TIN to persons (including federal agencies) who are required to file information returns with the IRS to report interest, dividends, or certain other income paid to you; mortgage interest you paid; the acquisition or abandonment of secured property; the cancellation of debt; or contributions you made to an IRA, Archer MSA, or HSA. The person collecting this form uses the information on the form to file information returns with the IRS, reporting the above information. Routine uses of this information include giving it to the Department of Justice for civil and criminal litigation and to cities, states, the District of Columbia, and U.S. commonwealths and possessions for use in administering their laws. The information also may be disclosed to other countries under a treaty, to federal and state agencies to enforce civil and criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. You must provide your TIN whether or not you are required to file a tax return. Under section 3406, payers must generally withhold a percentage of taxable interest, dividend, and certain other payments to a payee who does not give a TIN to the payer. Certain penalties may also apply for providing false or fraudulent information.

## **ADMINISTRATOR**

NAV Consulting, Inc. (the “Administrator” or “NAV”) has been engaged as the administrator of the SKK Ventures QP, LLC (the “Fund”) pursuant to a Service Agreement entered into with the Fund (the “NAV Agreement”). The Administrator is responsible for, among other things, calculating the Fund’s net asset value, performing certain other accounting, back-office, data processing, processing distributions, certain anti-money laundering functions and related administrative services.

The contact information for the Administrator is as follows:

NAV CONSULTING, INC.

1 Trans Am Plaza Drive Suite 400,

Oakbrook Terrace,

IL 60181, United States

Email: [transfer.agency@navconsulting.net](mailto:transfer.agency@navconsulting.net)

Phone:+16309541919 Fax:+16305968555

The NAV Agreement provides that the Administrator shall not be liable to the Fund, any member or any other person in absence of finding of willful misconduct, gross negligence, or fraud on the part of NAV. Furthermore, the Fund shall indemnify and hold harmless the Administrator from and against any liability, damages, claims, loss, cost or expense, including, without limitation, reasonable legal fees and expenses (individually, “Loss” and collectively, “Losses”) arising from, related to, or in connection with the services provided to the Fund pursuant to the NAV Agreement, unless any such Losses are the direct result of the willful misconduct, gross negligence or fraud of NAV. In no event shall NAV have any liability to the Fund, any member or any other person or entity which seeks to recover alleged damages or losses in excess of US \$500,000 in the aggregate, nor shall NAV be liable for any indirect, incidental, consequential, collateral, exemplary or punitive damages, including lost profits, revenue or data, regardless of the form of the action or the theory of recovery, even if NAV has been advised of the possibility of such damages or such damages were foreseeable. Any claim brought against NAV in connection with the NAV Agreement will be barred unless it is initiated within one year of the earlier of the disclosure of the event which is the subject of such claim or the date that the party advancing such claim knew or could with due inquiry have known of such event. NAV shall not be liable to the Fund, any member or any other person for the actions or omissions of any agent, contractor, consultant or other third party performing any portion of the services under the NAV Agreement absent a finding of gross negligence, willful misconduct or fraud on the part of NAV in appointing or monitoring such agent, contractor, consultant or other third party. NAV shall not be liable to the Fund, any member or any other person for actions or omissions made in reliance on instructions from the Fund or advice of legal counsel. The NAV Agreement bars non-parties from asserting third party beneficiary claims against NAV. As a result of the foregoing, the Fund’s ability to recover from the Administrator, regardless of the conduct of the Administrator, will be limited and the Fund may suffer.

The services provided by NAV are purely administrative in nature. NAV has no responsibilities or obligations other than the services specifically listed in the NAV Agreement. No assumed or implied legal or fiduciary duties or services are accepted by or shall be asserted against NAV. NAV does not provide tax, legal or investment advice.

The NAV Agreement also provides that it is the obligation of the Fund’s management, and not of NAV, to review, monitor or otherwise ensure compliance by the Fund with the investment policies, restrictions or guidelines applicable to it or any other term or condition of the Fund’s offering documents and with laws and regulations applicable to its activities. Moreover, the Fund’s management’s responsibility for the management of the Fund, including without limitation, the valuation of the Fund’s assets and liabilities, the oversight of the services provided by NAV and the review of work product delivered by NAV shall not be affected by or limited by any of the services provided by NAV.

NAV is entitled to rely on any information, including valuation information, received by NAV from the Fund, the Fund’s management or other parties, without independent verification, audit, review, inquiry, or performing other due diligence and NAV shall not be liable to the Fund, any Limited Partner or any other persons for losses suffered as a result of NAV relying on incorrect information.

The Fund is responsible for the fees payable to NAV.

Either party may terminate the NAV Agreement on 60 days’ prior written notice as well as on the occurrence of certain events.

# **Form ADV Part 2A**

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## **Uniform Application for Investment Adviser Registration**

**SHEPHERD KAPLAN KROCHUK, LLC**

125 Summer Street, 22nd Floor, Boston, MA 02110

Contact Employee:  
Bruce Goodman, Chief Compliance Officer  
(617) 896-1627  
[bgoodman@sk-llc.com](mailto:bgoodman@sk-llc.com)

[www.skk-llc.com](http://www.skk-llc.com)

June 26, 2020

This brochure provides information about the qualifications and business practices of Shepherd Kaplan Krochuk LLC. If you have any questions about the contents of this brochure, please contact us at 617-896-1600. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission or by any state securities authority.

Additional information about Shepherd Kaplan Krochuk LLC also is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov). Registration does not imply a certain level of skill or training.

## Item 2: Material Changes

This version of the brochure includes changes, which may be material, to the version of the brochure in the annual amendment of Form ADV dated March 30, 2020 previously filed:

Item 18 has been amended to reflect the firm's participation in the CARES Act Paycheck Protection Plan loan program.

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## Item 4: Advisory Business

Shepherd Kaplan Krochuk, LLC (Shepherd Kaplan Krochuk, SKK, or us/we) has been in business since 2001. It was formerly named GRT Capital Partners, LLC, and changed its name in November 2017 when it combined with Shepherd Kaplan LLC, a Boston based registered investment adviser. As a result of the combination, Shepherd Kaplan LLC (SK) became a majority-owned and wholly controlled subsidiary of SKK. The Management Board of SKK is comprised of David Shepherd, David Kaplan, Timothy Krochuk, Stephen Brackett and Brian Lockhart, who together own the company. The current members of the Management Board are also members of SKK Group, LLC, which serves as the managing member of the general partner or manager of a number of the private investment funds. Stephen Brackett is President and Co-Head of Alternative Investments at SKK and Tim Krochuk is also Co-Head of Alternative Investments. Timothy Krochuk was also a member and founder of GRT Capital Partners, LLC. Brian Lockhart is CEO of Peak Capital Management, LLC (PCM), an SEC-registered investment adviser based in Greenwood Village, Colorado which was acquired in February 2020 by SKK.

SKK is the overarching adviser of all of the clients of the firm, including asset management clients directly advised by SKK and the wealth management clients sub-advised by SK, but excluding PCM.

Readers who are primarily interested in the wealth management services provided by SK should read SK's separate Form ADV Part 2A brochure available at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

Readers who are primarily interested in the asset management advisory services provided by SKK directly should read this Form ADV Part 2A brochure.

Although SKK is the Managing Member of PCM, PCM is currently operated as a separate advisory business from both SKK and SK, and this brochure does not address the services provided by PCM to its clients. Readers who are primarily interested in the investment advisory services provided by PCM directly should read PCM's separate Form ADV Part 2A brochure available at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

In providing asset management services, SKK gives advice as to the investment of funds on the basis of the particular needs of its clients. In the case of institutional investors, unless otherwise agreed, these services are offered to the institution, such as private investment funds, pension plans, investment companies, and other institutions that are clients of SKK, and not directly to the investors, limited partners, members, participants or clients of such institutions. SKK can also provide regular and continuous advisory services to high net worth individuals. In managing assets, SKK considers the specific investment objective and strategies, as well as guidelines and restrictions, established for each client account and tailors its advisory services accordingly. SKK normally retains full investment discretion to buy and sell securities and otherwise make investment decisions for asset management accounts that it manages directly. Clients may impose restrictions on investing in certain securities or types of securities.

As of December 31, 2019, SKK managed client assets of approximately \$1,083,973,141 on a discretionary basis and \$5,681,238,373 on a non-discretionary basis.

In addition to the other services, SKK may, in appropriate circumstances, provide certain clients with information and/or advice regarding investments in SKK's own sponsored, private investment funds including hedge funds, private equity funds and private real estate funds. Such investments present potential conflicts of interest, as discussed in Item 11 of this brochure.

SKK does not participate in "wrap fee" programs.

## Item 5: Fees and Compensation

### I. Fees and Compensation on Wealth Management Accounts Sub-advised by SK

#### A. Institutional Clients

Fees are either a flat fee negotiated with the client or are based on assets under management and plan type, and in some cases include a minimum annual fee. Annualized fees are set forth in the client's management agreement. Percentage based fees generally range from 5 to 50 Basis Points (bps, 1 bps = .01%) and are negotiated on an individual basis. Generally, bills for services are issued on a quarterly basis in advance. Clients in certain instances also pay an initial negotiated consulting fee. If applicable, there is an additional fee for conducting a vendor search for a custodian or administrative record keeper. Clients approve invoiced fees prior to payment.

Fees are either deducted from client-designated accounts or are billed to the client and paid separately. At the time of client relationship termination, any fees received for services not yet performed will be fully refunded on a pro-rated basis.

#### B. Private Clients

Fees are generally assessed based on assets under management and include a minimum fee in particular situations. Annualized fees are set forth in the client's management agreement. They generally range from 40 to 100 Basis Points (bps, 1 bps = .01%) and are negotiated on an individual basis. Generally, bills for services are issued on a quarterly basis in advance. Clients also pay a negotiated initial consulting fee in particular situations.

In some limited circumstances, a sophisticated private client agrees to a performance-based fee that both parties deem appropriate. In such cases, both parties agree that the fee will include a portion of the return on the client's investments. Performance-based fee arrangements raise potential conflicts of interest, which are further discussed in Item 6.

Recommendations that clients purchase or sell securities using borrowed money (i.e. margin accounts or lines of credits) create a potential conflict of interest. This conflict occurs because advisory fees are based on the total market value of the securities in the clients' accounts. A margin debit balance does not reduce the total market value of securities on which a client will be billed. By using borrowed money to purchase securities, the total market value of an account will be higher, which results in a higher advisory fee.

Fees are either deducted from client-designated accounts, or clients choose to be billed and pay fees separately. On a quarterly basis, clients receive an invoice with details of their assets as of quarter end and the fees charged for each account. At the time of client relationship termination, any fees received for services not yet performed will be fully refunded on a pro-rated basis.

#### C. Endowment and Foundation Clients

Fees are either a flat fee or are based on assets under management and include a minimum fee in certain instances. Annualized fees are set forth in the client's management agreement. They generally range from 20 to 100 Basis Points (bps, 1 bps = .01%) and are negotiated on an individual basis. Generally, bills for services are issued on a quarterly basis in advance. Clients also pay an initial consulting fee if agreed upon.

Fees are either deducted from client-designated accounts, or clients choose to be billed and pay fees separately. On a quarterly basis, clients receive an invoice with details of their assets as of quarter end and the fees charged for each account. At the time of client relationship termination, any fees received for services not yet performed will be fully refunded on a pro-rated basis.

#### D. Other Fee Information

Any SKK client who receives wealth management services from SKK and decides to invest in one or more of SKK's private fund offerings will not be charged both wealth management fees and a fund management fee on the same asset. The potential for SK and/or SKK and their related parties to benefit from investments made in those private equity and real estate funds presents a potential conflict in selecting such investments to recommend to clients. SKK believes that these conflicts are mitigated by its investment process and disclosures. SKK will provide disclosures regarding potential conflicts to any clients to which it recommends investments in private equity and real estate fund offerings and otherwise as necessary, in addition to the disclosures provided in this brochure.

Clients are also subject to fees charged by others such as custodians, broker-dealers and/or investment managers. Fees include custodial fees, brokerage commissions or other fees or charges associated with securities transactions, mark-ups or mark-downs in principal transactions, deferred sales charges, wire transfer or related processing fees or other charges mandated by law or regulation.

Mutual fund expenses, including exchange traded funds, in which account assets are invested by SKK or by others, impose separate investment management fees and other operating expenses, described in the fund's prospectus, for which the account will be charged separately from the fee paid for advisory services.

Clients with investments in private funds (including those offered by SKK) will normally be charged a management fee and other expenses by the private fund, subject to the waiver discussed in the first paragraph of this section applicable to clients receiving wealth management services from SKK. The manager, general partner or investment manager also charges, if agreed, a performance fee which is based on a fund's net profits.

Please see Item 12 for additional information regarding brokerage arrangements.

### II. Fees and Compensation for Asset Management Accounts Advised Directly by SKK

#### A. Advisory Fee for Private Investment Funds

SKK manages the assets of private investment funds organized by SKK or its affiliates. The fees paid by such private investment funds are described in their offering materials and vary depending on the objectives and strategies of a particular fund. The private investment funds pay a fee for advisory services comprised of one or more components depending on the structure and portfolio of the fund and include a fixed percentage fee component, a performance-based incentive fee component, and/or an up-front fee component. For hedge funds, the typical fixed percentage fee component is equal to 1.5% per annum of net assets and is payable in advance on a quarterly basis (*i.e.*, 0.375% quarterly). For private equity funds with limited liquidity and a limited expected term, SKK charges a single, up-front management fee instead of an annual fixed percentage fee. Typically the performance-based, incentive fee component is equal to 20% of a hedge fund's net profit for any fiscal year, subject to a "loss carry forward" and other conditions, and can vary significantly with added variables based on time or the occurrence of specific liquidity events for private equity funds. Net profit is defined in a fund's governing documents and generally includes, among other things, realized and unrealized appreciation and depreciation in a fund's securities positions. Under the "loss carry forward" provision, the incentive fee is not paid with respect to a fiscal year until any previous net loss is offset by subsequent profits, as calculated on the basis of the capital account of each participating investor in the private investment fund. Fees are waived or reduced for fund investors that are members, principals, employees or affiliates of SKK, friends and relatives of such persons, and others, including certain large or strategic investors.

Private investment funds organized by SKK or its affiliates pay additional costs, generally to third parties, such as audit, administrative, legal, and/or custodial expenses.

A private investment fund has the right to terminate its investment advisory service arrangements with SKK effective after giving advance written notice as stipulated for the given fund. Upon termination of an investment management agreement involving a hedge fund, any fixed percentage fee that has been prepaid will be prorated to reflect the portion of time that the investment advisory services were provided during the relevant period. Upon termination of an investment management agreement involving a private equity fund which has paid an upfront management fees, no refund is paid upon any termination.

#### B. Withdrawal Fee for Private Investment Funds

Certain SKK-sponsored private investment funds apply a special fee on early withdrawals. In the event an investor in a private investment fund withdraws all or a portion of the investor's capital account within one year of becoming an investor, the investor must pay the fund a withdrawal fee of 2% of the amount withdrawn. Certain SKK sponsored private funds do not permit investors to borrow or make an early withdrawal of any portion of the capital contributions made to it.

#### C. Advisory Fee for Separately Managed Accounts

In addition to the accounts for private investment funds, SKK provides advice to separately managed accounts, including accounts of high net worth individuals, for a fixed percentage fee of 1.5% per annum of net assets, which is payable in advance on a quarterly basis (*i.e.*, 0.375% quarterly). The fee is subject to adjustment depending on the specific investment strategy for the account. For example, a separately managed account whose strategy includes the taking of short positions could have an additional performance-based, incentive fee or other additional fee component as mutually agreed with the client. A typical performance-based, incentive fee component is equal to 20% of the account's net profit for any fiscal year, subject to a "loss carry forward" and other conditions.

Investment advisory arrangements for separately managed accounts are terminable at any time by the client or SKK, subject to advance notice for a stated number of days (*e.g.*, 60 days) as set forth in the investment management agreement between the parties.

#### D. Other Fee Information

Fees are subject to modification and negotiation based on a consideration of relevant factors. A fee is modified or negotiated where the relationship of the account to other accounts served by SKK is a factor, the possible sub-advisory role of SKK, the nature and scope of the responsibilities of SKK in a given relationship, the initial size of the account, the expected cash flow into the account for new investment, or expected withdrawals of cash from the account, and other reasons.

Clients choose whether to have management fees deducted from their assets under management or billed to them. Fees are payable as mutually agreed between Client and SKK and may be monthly, quarterly and/or annually. Clients also incur separate custodian fees, separate brokerage fees, and other transaction costs in connection with trades made for their account (see Item 12, Brokerage Practices). Clients indirectly incur the fees and expenses of a mutual fund or electronically traded fund to the extent that the assets under management are invested in such funds. Where management fees are paid in advance, as in the case generally for a private hedge fund which is a client, the amount of the prepaid management fee will be prorated in the event of the early termination of the account to reflect the portion of the prepaid period that the investment advisory services were provided; however, for private equity funds prepaid management fees are generally not prorated in the event of an early termination.

Where an investor interested in a private investment fund sponsored by SKK is introduced to the private investment fund by a broker-dealer, placement agent, or other outside service provider, the general partner or manager of such private investment fund deducts a percentage of the amount invested by such investor in certain situations to pay sales fees or charges, on a fully disclosed basis, to such broker-dealer, placement agent or outside service provider based upon the capital contribution of such investor, where consistent with applicable law. Any such sales fees or charges would (i) be assessed against the referred investor, (ii) not be a capital contribution of the investor, and (iii) reduce the amount actually invested by such investor in the private investment fund. Such assumption of expenses by investors benefits SKK by increasing assets under SKK management. See Item 14 below, Client Referrals and Other Compensation.

Generally for wealth management clients sub-advised by SK, and in some instances where SKK manages a separate account, an employee of SKK is compensated based in whole or in part on a percentage of applicable client-managed assets for which the employee performed marketing services and/or performs ongoing servicing responsibilities, including without limitation advisory responsibilities. This practice presents a conflict of interest as it gives the employee an incentive to recommend investment advisory services based on compensation derived from total client assets, rather than on a client's needs. The firm believes that its investment process mitigates such conflicts. Also, these conflicts are disclosed by providing a copy of this brochure to prospective clients Please see Item 11 for a more detailed discussion of conflicts of interest.

## Item 6: Performance-Based Fees and Side-By-Side Management

As mentioned in Item 5, Fees and Compensation, most of the private investment funds pay a fixed percentage fee component, a performance-based incentive fee component, and/or an upfront fee component, for advisory services. In limited circumstances, SKK also negotiates a performance-based fee with a sophisticated wealth management client where the parties deem appropriate.

Performance-based fee arrangements raise certain potential conflicts of interest. A performance-based fee can create an incentive to recommend investments that are riskier or more speculative than would be the case absent such a fee. SKK has policies and procedures in place that are designed to prevent these conflicts from influencing the allocation of investment opportunities. In addition, SKK believes that conflicts arising from performance-based fees are mitigated by its practice of recommending investments to clients based solely on each client's individual needs and circumstances with a view toward the long-term success of each client relationship.

In addition, some supervised persons manage not only accounts that are charged a fixed percentage fee and a performance-based fee, but also accounts that are charged only a fixed percentage fee. SKK and the supervised person face potential conflicts of interest by managing these accounts at the same time, because SKK and the supervised person have an incentive to favor accounts which pay a performance-based fee. SKK addresses this conflict of interest by allocating trades for asset management accounts in a formulaic, quantitative manner in accordance with SKK's Trade Allocation Policy. Trades are generally allocated pro-rata automatically by the asset management trading system based on relative assets of the accounts or allocated in a manner to facilitate balancing of weightings in an account. Allocations, however, are adjusted in light of the amount of cash inflows or outflows that an account has, or to avoid *de minimis* allocations of less than 100 shares, or odd lots, or for similar, administrative efficiencies. See Item 12.IV. for further information on SKK's trade allocation practices.

## Item 7: Types of Clients

SKK offers regular and continuous advisory services for private investment funds, pension plans, investment companies, institutions, endowments & foundations, private clients, and high net worth individuals. Unless otherwise agreed, in the case of institutional clients, SKK provides such services to the institutions, as distinguished from investors, limited partners, members, participants or clients of such institutions themselves. Information on clients for which SK provides sub-advisory services can be found in SK's separate Form ADV Part 2A brochure.

The target minimum amount of initial assets for a new separately managed account is \$10,000,000. The minimum account size for any new account is, however, subject to modification by mutual agreement with a client as determined on a case by case basis in light of particular circumstances. The investment objective, strategy or guidelines of the account, particularly the introductory nature of a new strategy or investment approach for a private investment fund, the expectation of additional contributions to an account, the present or expected business relationship with the specific client or other potential clients, and similar considerations, can affect the minimum initial account size agreed upon.

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

### I. Methods of Analysis

With respect to asset management services, SKK may use any methods of securities analysis and any investment strategies which SKK believes may be helpful in achieving the investment objectives of its clients, consistent with any guidelines and restrictions that the client may otherwise request. Information on methods of analysis applied by SK can be found in SK's separate Form ADV Part 2A brochure.

SKK uses a variety of investment approaches and techniques in managing accounts, with an emphasis on the use of fundamental research. Fundamental research involves research that is conducted on the business and characteristics of specific companies to determine whether the companies have investment potential. Fundamental research can include interviews with company management, analysis of a company's historical financial statements, and creation of financial models of the company's projected financial performance, among other things. Company presentations and contacts can be a source of fundamental research. Company presentations are usually made by officers or senior members of an issuer and can provide an insight into management as well as an opportunity to ask questions. The presentations can be conducted via teleconferencing, at meetings in person at company sites, at SKK's office, or at venues sponsored by brokers. Similarly, information is available through various trade shows or conferences which focus on specific industries or investment styles. SKK may also review industry literature and discuss key products with users of the products and other sources directly or through expert networks.

In addition, SKK uses various quantitative techniques and its own proprietary models to manage accounts, and to monitor selected securities and performance against internal parameters. SKK may also use hypothetical models and back testing to develop products and services. In this approach, models are developed based on a review of historical data for a sample period and then applied retroactively, or back tested, against a longer period of historical data to create simulated results. The models are refined based on the simulated results and can form the basis of new investment hypotheses for use in managing accounts.

SKK generally retains investment discretion in managing the portfolios of its asset management clients. Certain hedge funds managed by SKK follow a similar strategy to each other but are organized and offered as separate funds in accordance with technical provisions of the Investment Company Act of 1940. Also, an investor might decide to create a separately managed account which follows the same hedge fund strategy. SKK seeks to manage such portfolios with similar investment objectives, strategies, guidelines

and restrictions, in a manner which, over a reasonable period of time, results in comparable sector, industry, and issuer weightings across such portfolios. However, at times, it may be appropriate for SKK to make recommendations and take actions that are different for otherwise similar accounts. Different actions may be taken for similar accounts because of other circumstances that affect the account, such as the account's size, cash additions and withdrawals for the account, the account's tax status, the tax ramifications of particular trades, the timing of an account's entry into the market, and the viewpoints of different portfolio managers assigned to the accounts.

Other investment strategies used by SKK can include cash management techniques that are helpful in certain market scenarios. Cash management techniques can be especially important when markets are erratic or when SKK believes it is desirable to hedge part of a portfolio. In another technique that is used on occasion, SKK may trade around a position to take advantage of volatility in the markets.

SKK has broad and flexible investment authority in most client accounts and may cause the portfolios to invest in a wide spectrum of investments consistent with the asset management client's investment strategy. SKK will generally invest in publicly traded equities, limited and private offerings of operating companies and special purpose vehicles depending on the strategy and guidelines of a particular client. Depending on the investment parameters of a given account, SKK may take long or short positions in securities and buy and sell covered and uncovered options on securities. Short sales and the sale of uncovered options can involve substantial risk.

A portfolio's investments may at any time include long or short positions in U.S. and non-U.S. publicly issued and non-public common stocks, American Depository Receipts ("ADRs"), American Depository Shares ("ADSs"), Global Depository Receipts ("GDRs"), preferred stocks, stock warrants and rights, bonds of all types including distressed and defaulted bonds, notes or other debentures, debt participations or bank debt, convertible securities, distressed securities, foreign currencies, forward contracts, commodities, commodity contracts, commodity futures, financial futures, partnership interests (such as private investment funds), publicly traded or master limited partnerships, swaps, options (including options on stock market indices), derivative contracts and structured notes, and other securities or financial instruments including those of investment companies, such as closed end funds or exchange traded funds ("ETFs"), royalty trusts, exchange traded notes ("ETNs"), real estate investment trusts ("REITs"), and special purpose vehicles. In addition to the borrowing which is inherent in a short sale or derivative contract, certain portfolios may buy securities on margin and may arrange with banks, brokers, and other financial institutions to borrow money against a pledge of securities in order to employ leverage. Certain financial instruments used by some clients, such as options or swaps, contain inherent leverage.

SKK does not currently envision significant investments in tangible commodities, options on tangible commodities, futures on tangible commodities, or financial futures. SKK may however engage in transactions in securitized products which tend to move like commodities. In connection with its investments in foreign securities, SKK does engage in transactions in foreign currencies; foreign currencies are not viewed by SKK as tangible commodities.

A number of accounts run active long-short portfolios and can employ financial leverage, through margin borrowing or in other ways. Such accounts may also take short positions as well as long positions in securities. Some accounts are long only.

## II. Risk of Loss

A number of the investment strategies of SKK involve speculative investments and are not intended as a complete investment program. The strategies are suitable only for clients who can bear the economic risk

of the loss of their entire investment, who have limited need for liquidity in their investment and who meet other conditions. There is no assurance that any of the strategies will perform satisfactorily. Investing in securities involves risk of significant loss that clients should be prepared to bear. SKK's investment strategies involve the following material risks, among others.

A. Equity Risk – Since the strategies involve the purchase of equity securities, the strategies are subject to the risk that stock prices will fall over short or extended periods of time. Historically, the equity markets have moved in cycles, and the value of equity securities may fluctuate drastically from day to day. Individual companies may report poor results or be negatively affected by industry and/or economic trends and developments or by world events. The prices of securities issued by such companies may suffer a decline in response. These factors contribute to price volatility, which is the principal risk of investing in securities.

B. Short Sales Risk – Short sales are transactions in which an account sells a security it does not own. The account must borrow the security to make delivery to the buyer. The account is then obligated to replace the security borrowed by purchasing the security at the market price at the time of replacement. The price at such time may be higher or lower than the price at which the security was sold by the account. If the underlying security goes down in price between the time the account sells the security and buys it back, the account will realize a gain on the transaction. Conversely, if the underlying security goes up in price during the period, the account will realize a loss on the transaction. Because the market price of the security sold short could increase without limit, the account could be subject to a theoretically unlimited loss. The risk of such price increases is the principal risk of engaging in short sales.

C. Options Risk – An account may engage in the purchase or sale of options, which involve the payment or receipt of a premium by the account and the corresponding right or obligation, as the case may be, to either purchase or sell the underlying security for a specific price at a certain time or during a certain period. Purchasing options involves the risk that the underlying instrument will not change price in the manner expected, so that the investor loses its premium. Selling options involves potentially greater risk because the seller is exposed to the extent of the actual price movement in the underlying security, rather than only the premium payment received (which could result in a potentially unlimited loss). Over-the-counter options also involve counterparty solvency risk.

D. Small- and Mid-Capitalization Company Risk – The small- and mid-capitalization companies in which accounts may invest may be more vulnerable to adverse business or economic events than larger, more established companies. In particular, these small- and mid-sized companies may pose additional risks, including liquidity risk, because these companies tend to have limited product lines, markets and financial resources, and may depend upon a relatively small management group. Therefore, small- and mid-cap stocks may be more volatile than stocks of larger companies. These securities may be traded over-the-counter or listed on an exchange.

E. Investment Style Risk – Many of the strategies used by SKK involve the pursuit of a "value style" of investing. Value investing focuses on companies with stocks that appear undervalued in light of a variety of factors. If SKK's assessment of a company's value or prospects is wrong, an account could suffer losses or produce poor performance relative to other funds. In addition, "value stocks" can continue to be undervalued by the market for long periods of time. Because there is substantial uncertainty concerning the outcome of transactions involving financially troubled companies in which an account may invest, there is a potential risk of loss by an account of its entire investment in such companies. Over time, a value investing style may go in and out of favor, causing an account to sometimes underperform other funds that use differing investing styles.

F. Non-Diversification – Some strategies involve investments primarily in one industry or sector, or other grouping, such as issuers that focus on health care, energy or real estate. Accordingly, an account which follows such a strategy will not be diversified among a wide range of industries, geographic areas and / or types of securities. Further, the account's portfolio may not be diversified among a wide range of issuers. Some strategies may invest in a single issuer. Companies in a single industry or closely related industries often are faced with the same obstacles, issues and regulatory burdens, and their securities may react similarly and move in unison. Thus, stock prices of portfolio companies can change collectively without regard to the merits of individual companies. The investment portfolio of such accounts may be subject to more rapid change in value than would be the case if the account maintained a wide diversification among industries, areas, types of securities and issuers.

G. Concentration – As noted, a strategy can be fully concentrated in a single issuer and not be diversified among a wide range of issuers. Because the portfolio will not be diversified among a wide range of issuers, the investment portfolio will be subject to significant concentration risks and more rapid change in value than would be the case if the portfolio were required to maintain a broader diversification among issuers. Exposure to a single issuer could result in it suffering losses disproportionate to those incurred by the market in general. By not being invested in any additional issuers, an investor may be substantially adversely affected when that one interest underperforms.

H. Frequent Trading – The investment strategies used by SKK can involve the frequent trading of securities, and as a result, portfolio turnover, brokerage commission expenses, and other transaction costs and taxes, may significantly exceed those of other investment accounts of comparable size.

I. Real Estate – Some strategies used by SKK involve risks associated with real estate investments. Real estate values are affected by a number of factors, including changes in the general and local economic climate, the effectiveness of management, competition based on rental rates, attractiveness and property location, quality of maintenance, insurance and management services, and changes in operating costs. If properties do not generate sufficient revenues to meet their operating expenses, including debt service and capital expenditures, the operation may fail. Real estate values are also affected by such factors as government regulations (including those governing usage, improvements, zoning and taxes), interest rate levels, and the availability of financing. The use of borrowed funds involves a substantial degree of financial risk and can amplify the effect of any increase or decrease in the value of an investment. If a development project has not been sold before the maturity of a loan, and alternate financing is not available, the project could be lost through foreclosure. Undeveloped land involves more risk than the acquisition of a property which has been developed; undeveloped land does not generate operating revenue while costs are incurred and may require more permitting approvals to facilitate development compared to developed properties. The success of projects involving new construction and rehabilitating existing buildings requires projecting costs, which is subject to risks regarding underlying conditions and future events which are inherently uncertain.

Further risks exist depending on the particular real estate factors for a given underlying real estate project. The particular enterprise involved may not have any operating history or any assurance of profitability. A recently organized entity may not have any revenues from operations or assets upon which investors may base an evaluation of its likely performance. The Property may face risks of unanticipated casualty, such as fire, vandalism, burglary, or environmental issues, such as radon, mold, or land that is contaminated by storage of regulated substances (gasoline, solvents, etc.). The Developer may elect not to obtain title insurance for whatever reasons. The investment under consideration may only be for a particular stage of development, and the planning for the remaining portion of the project may be incomplete and affected by increases in planning and construction costs, making it difficult to collect further capital contributions.

J. Private Equity Risk – Some strategies used by SKK involve concentrated investments in illiquid securities of individual, privately held companies or special purpose vehicles. Such investments may not have a public market at the time of purchase and may never develop a public market. They may not be registered under applicable securities law and the transfer of such interests is likely to be subject to restrictions on resales imposed by applicable securities law. These strategies may take a significant number of years before any returns are available to an investor, and investors may face a total loss of their investment.

K. Reliance on Outside Information – SKK's methods of analysis is dependent in part on information provided by issuers, third party consultants, rating agencies and other publicly available sources of information about issuers and securities. Reliance on such information is subject to the risk that the information is inaccurate or biased.

L. Cyber Related events -- To the extent SKK's advisory business incorporates or depends on various applications and systems to perform business functions, such as information technology hardware, computer software, the Internet, and related technologies, clients are subject to certain operational and information security risks related to them. Material risks include disruption of SKK's normal business activities due to hardware failure, infrastructure disruption, third party attacks on SKK's technological resources, unauthorized access to client non-public information, or unauthorized requests for financial transactions. These types of cyber related events may interfere with the processing of client transactions, cause the misappropriation of confidential client information, impair the services of third parties to SK, impact daily operations, or cause reputational damage to SK.

M. Fund Structure Risk – The structure of certain SKK-sponsored funds provides that profits and losses based on certain assets and activities are allocated to individual series of Interests, while general profits and losses are shared among all series. Since the fund is not structured as a Series Limited Liability Company, with statutory distinction between series, investments in the fund are exposed to possible claims of the fund's general creditors, governance risk, liabilities, and other risks of the Fund as a whole, including those arising from other series of Interests.

### III. Investment Strategies

SKK currently follows a number of significant investment strategies, as described below.

A. Ventures – An account which follows the Ventures strategies seeks capital appreciation through investments in Financial Instruments issued by operating companies engaged in certain sector groups, which include, without limitation, the healthcare sector. The healthcare sector includes companies which develop specialized platforms for the delivery of diverse drugs throughout the body, conduct research, manufacture healthcare devices, provide health services, perform diagnostics, and provide pharmaceuticals, among other things. Another sector is advanced technologies and next generation infrastructure, including cybersecurity, 5G and adjacent technologies. Such an account may also invest in Financial Instruments issued by operating companies in other sectors. The general objectives of the Ventures strategy are to buy, sell, hold and otherwise invest in Financial Instruments and to exercise all rights, powers, privileges and other incidents of ownership or possession with respect to Financial Instruments. As used in this paragraph, Financial Instruments means all types of financial assets, U.S. or non-U.S., whether publicly or non-publicly traded, including but not limited to stocks, notes, bills, bonds, subscriptions, preferred stocks, convertible securities, options (including, without limitation, covered and uncovered puts and calls and over-the-counter options), rights, warrants, swaps, currencies, futures, other commodity interests, certificates of deposit, ADRs, International Depositary Receipts, interests in investment companies, and interests in ETFs. In many cases, such Financial Instruments may only be available through limited and

private offerings. Through the Ventures platform, investors typically have an opportunity to invest in a series or share class of a Fund that in turn invests in selected securities of a single company.

B. Real Estate – An account which follows the Real Estate strategy seeks long term growth of capital. The account invests primarily in the preferred or non-preferred equity or debt securities of a single company or multiple companies involved in the development, ownership or management of commercial or residential real estate properties, including office buildings, hotels, condominiums, apartment units, or raw land, among other properties including niche property sectors. In selecting investments, the account looks for a disciplined and focused investment strategy on the part of management and/or promoters, a repeatable track record by them, and their familiarity with the particular real estate market affecting a given property, and other factors. The real estate strategy is an alternative asset class with reduced market correlation. SKK's involvement can range from direct involvement with the real estate developer and real estate management company, to a more passive, observant role.

C. Topaz Strategy – An account which follows the Topaz strategy seeks to achieve superior total returns while minimizing the probability of permanent impairment of capital by primarily investing in publicly traded equity securities deemed to be undervalued.

For the Topaz strategy, SKK uses an investment technique which involves so-called “conceptual buckets” of securities. A conceptual bucket is a grouping of investments which have particular characteristics in common, for example, a group of “turnaround stocks” or a group of “discounted sum-of-the-parts” companies. The portfolio of an account may include investments in a number of different conceptual buckets, each representing an element of a larger, overall investment strategy. Conceptual buckets provide a framework that SKK uses to divide a larger investment strategy into smaller, discrete parts which can be managed tactically.

Another investment technique that is used where appropriate is the employment of a “farm team” of selected companies for investment consideration. In this approach, an investment in a company often begins as a relatively small position and increases in size as SKK’s confidence grows and the original investment thesis for the security is tested. Based on the performance of the “farm team” position, investment in the security may be increased or decreased thereafter.

An account may also take short positions in the securities of companies deemed to have worsening business fundamentals, deteriorating competitive positions, or is affected by other negative circumstances. To help increase returns, an account may employ financial leverage, through margin borrowing or in other ways, when it deems such action to be appropriate. The portfolio managers run an active long-short portfolio and engage in substantial options trading. While the strategy focuses primarily on U.S. equities, investments may also be made in non-U.S. securities.

D. Value Strategy – An account which follows the Value strategy seeks to achieve superior total returns while minimizing the probability of permanent impairment of capital by primarily investing in publicly traded equity securities deemed to be undervalued. While the strategy focuses primarily on U.S. equities, investments may also be made in non-U.S. securities. Value stocks include those which may be out of favor with investors or overlooked by analysts for a number of reasons. SKK looks for companies that appear likely to come back in favor, because of, for example, good prospective earnings, strong management teams, new products and services, or some unique circumstance. The Value strategy does not normally involve transactions in options or short sales.

E. Closed-End Opportunities – An account which follows the Closed-End Opportunities strategy seeks total return from a mix of income and capital appreciation. An account invests primarily in securities issued

by closed-end investment companies or mutual funds, mostly those organized under the laws of the United States. However, an account may also invest in foreign closed-end funds. In addition, an account may invest in ETFs and take short positions. The strategy is to engage in opportunistic trading of closed-end funds to attempt to capture value as changes occur in the discounted price of the closed-end funds. The discount can fluctuate relative to the historical discount for a given fund or just in absolute terms. The fund may also engage in trading in options and ETFs directly or indirectly related to closed-ends funds or the portfolios of closed-end funds.

F. Energy – An account which follows the Energy strategy seeks long term growth of capital. The account invests primarily in the equity securities of global energy and natural resources companies and companies in associated businesses, as well as utilities (such as gas, water, cable, electrical and telecommunications utilities). The equity securities include common and preferred stock, convertible securities, warrants, depositary receipts and securities or other instruments whose price is linked to the price of common stock. The account may invest in companies of any size, ranging from large to small capitalizations, although SKK tends to focus on small capitalization companies. The account may invest, without limit, in companies located anywhere in the world and will generally invest in North America as well as companies tied economically to countries outside North America. An energy account can be structured to be managed with a long-only portfolio, or with a long-short portfolio that provides leverage.

G. Custom Strategies – In addressing the needs of specific clients, the above described strategies may be used in whole, in part, or in combination, along with any new strategies from SKK or as requested by the client, to create custom strategies. Custom strategies are those which the client and SKK have mutually agreed upon and which do not otherwise readily fit the above described strategies. For example, a client and SKK may agree to limit an account to a pre-selected group of companies to be managed in a manner which blends some of the above described strategies. Another strategy is to make tax-advantaged investments pursuant to certain federal income tax provisions through the creation of so-called opportunity zones as designated by the government to provide for local development and employment in under-served geographic locations. Other custom strategies include investments in companies involved in real estate, pharmaceuticals, or medical services. A strategy can involve investment in a private investment fund that only holds a significant position in one issuer, such as a single, large real estate project, or a single consulting company that specialized in creating financial structures for medical professionals. Another custom strategy can involve special situations identified by a special situations group that provides investment structures to effectively invest in various work-outs, liquidations, spin-offs, reorganizations, bankruptcies and similar situations. Custom strategies can also be long-only or involve the use of short selling and options. In another instance, a separately managed account can be created with a multi-strategy, multi-manager portfolio. Such a separately managed account with a specially designed infrastructure would allow each manager to run his distinctive sub-strategy as, in effect, a single account within the one separately managed account, which allows for tax, trading and cost efficiencies.

## Item 9: Disciplinary Information

In February 2020 SKK became the sole owner of all voting securities of Peak Capital Management, LLC (“PCM”) and PCM’s principal, Brian Lockhart (“Lockhart”), became a member of SKK’s Management Board. Prior to this transaction, Lockhart entered into a Stipulation for Consent Order with the Colorado Division of Securities (“Stipulation”). In the Stipulation, the Staff of the Division (the “Staff”) alleged that in 2012 and 2013 Lockhart recommended an investment in a movie production company to some advisory clients and others regarding which he, as an Executive Producer, had a material conflict of interest that he maintains he disclosed orally to all of the clients. Multiple clients acknowledged such oral disclosure. The Staff determined that this recommendation was inconsistent with Lockhart’s obligations

under Division Rule 51-4.8(IA)(K), which requires such disclosures to be made in writing. Under the Consent Order, Lockhart agreed not to violate Rule 51-4.8(IA)(K). No fine or other penalty was assessed.

## Item 10: Other Financial Industry Activities and Affiliations

SKK has relationships with related persons engaged in certain financial businesses that are material to the advisory business and clients of SKK as set forth below. Related persons include entities, members, officers and employees (except administrative staff) controlled by or under common control with SKK. These related persons are primarily the investment advisory subsidiaries of SKK (SK and PCM) and entities related to the funds that SKK manages and advises.

Where SKK or one of its investment advisory subsidiaries recommends investments to its or their clients in related businesses, or if SKK and its related persons invest alongside clients or investors in businesses or private investment funds, including private investment funds that they manage, or participate in the management or governance of, or receive compensation, including securities, for services from, such businesses or private investment funds, conflicts of interest arise because SKK and its related persons may have interests different from those of its and its investment advisory subsidiaries' clients and investors. These potential conflicts of interest with clients and investors are described further below in Item 11, Code of Ethics, Participation or Interest in Client Transactions and Personal Trading.

Entity	Function	Entity – Private Investment Company
Shepherd Kaplan Krochuk, LLC	Primary Investment Adviser	
Shepherd Kaplan, LLC	Sub-Investment Adviser	
SKK Closed-End Opportunities GP, LLC	General Partner of	SKK Closed-End Opportunities, LP
SKK Group, LLC	Manager of each GP or Manager listed in the column to the left	
SKK Provident Investors GP, LLC	General Partner of	SKK Provident Investors, LP
PCF Capital Markets, LLC	Broker Dealer	
SKK Real Estate GP II, LLC	General Partner of	SKK RE Ventures Fund II, LP SKK RE Ventures Fund PFD II, LP
SKK Topaz Partners (QP) GP, LLC	General Partner of	SKK Topaz Partners (QP), LP
SKK Topaz Partners GP, LLC	General Partner of	SKK Topaz Partners, LP
SKK Value GP, LLC	General Partner of	SKK Value Fund, LP
SKK Ventures Manager, LLC	Manager of	SKK Ventures, LLC
SKK Ventures QP Manager, LLC	Manager of	SKK Ventures QP. LLC
Peak Capital Management, LLC	Investment Adviser	
Peak Capital Management, LLC	General Partner and Manager of	PCM Tax Lien Fund, LP
SKK 9i Ventures Manager, LLC	Manager of	SKK 9i Ventures, LLC
SKK 9i Ventures QP Manager, LLC	Manager of	SKK 9i Ventures QP, LLC

SKK Opportunity Zone Fund I Manager, LLC	Manager of	SKK Opportunity Zone Fund I, LLC
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Samuel Kidston is the sole member and owner of North & Webster SSG, LLC which is an independent consultant through which he provides portfolio management services relating to assets under management by SKK. Mr. Kidston and North & Webster SSG, LLC provide input on potential investments in work-outs, liquidations, spin-offs, reorganizations, and bankruptcies, among other special situations. Investments can be structured through the use of various entities in which SKK management persons can also be involved. Potential conflicts of interest exist insofar as SKK apprises a client or investor to consider an investment in a fund which SKK also manages.

PCF Capital Markets, LLC is a registered broker dealer and is owned primarily by Provident Healthcare Partners, LLC, a minority equity interest in which is held by SKK Provident Investors, LP, a private investment fund managed by SKK. Stephen Brackett represents the fund on the Board of Managers of Provident Healthcare Partners, LLC. SKK's indirect relationship with PCF Capital Markets, LLC creates potential conflicts of interest where, among other things, clients of PCF Capital Markets, LLC invest in SKK private investment funds; see Item 11 below regarding conflicts of interest.

SKK recently acquired Peak Capital Management, LLC ("PCM"), an investment adviser registered with the SEC. PCM develops investment strategies designed to manage risk utilizing an absolute return philosophy. Brian Lockhart is the Chief Executive Officer and Chief Investment Officer of PCM, a member of the SKK Management Board, and has an ownership interest in SKK and SKK Group, LLC. (See Form ADV for PCM at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).) SKK's relationship to PCM creates potential conflicts of interest where, among other things, clients of PCM invest in SKK private investment funds; see Item 11 below regarding conflicts of interest.

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

### I. Code of Ethics

Regulations require investment advisers to adopt a code of ethics. The firm's Code of Ethics (Code) establishes rules of conduct for all supervised persons of SKK. Generally speaking, the term "supervised persons" includes members, managers, employees of SKK and consultants, if any, who provide advice on behalf of SKK and are subject to SKK's supervision and control; the term "access persons" includes those supervised persons with access to non-public information about securities recommendations by SKK for clients, or purchases and sales of securities by SKK clients.

SKK and its supervised persons must comply with the rules of the Firm's Code of Ethics, their fiduciary duties to clients, and applicable federal securities laws. SKK's fiduciary duty to its clients require that SKK and its supervised persons act with good faith and in the best interests of clients. Provisions of the Code include transaction reporting requirements, require access persons to obtain approval before they directly or indirectly acquire beneficial ownership in any security in an initial public offering or in a limited offering, and the obligation to report Code violations promptly.

SKK will provide a copy of its code of ethics to any client or prospective client upon request.

## II. Conflicts of Interest

### Allocating resources and investment opportunities

Various conflicts of interest arise because of the close relationship of SKK, SKK Group, LLC, and members of the SKK Management Board. Members of SKK Group, LLC have an interest in incentive fees received from various private investment funds served by SKK. As a result, SKK Group, LLC and SKK (and their principals) have conflicts of interest in allocating their time and activity between various accounts, in allocating investments among accounts, and in effecting transactions between accounts, including ones in which SKK Group, LLC and SKK (and their principals) have a financial interest. Where accounts have similar investment strategies, SKK could favor one account over another because one account compensates SKK more than the other account. SKK has adopted trade allocation procedures, among other policies and procedures, which are designed to help address such conflicts. See Item 11 (I), Code of Ethics, and Item 6, Performance-Based Fees and Side-By-Side Management, above.

### Cross Transactions

SKK reserves the right to cause the SKK private investment funds and other accounts directly managed by SKK to enter into transactions among or between themselves, commonly known as cross transactions. Cross transactions are mutually advantageous to the buying and selling accounts where, for example, one account needs cash and the other account has excess cash, or where cash flows or particular portfolio holdings have caused the accounts to deviate from desired weightings, and rebalancing is needed to meet certain weighting parameters. Cross transactions can reduce brokerage commissions for both accounts and can also help the accounts avoid an adverse market impact that trades in the market might otherwise create.

Cross transactions between the funds, accounts, or other clients are only considered when they are appropriate and in the best interests of the accounts under the circumstances, subject to full disclosure to the affected accounts and compliance with the various regulatory provisions that apply. In particular, purchase and sale transactions (including swaps) are permitted between or among the funds and other accounts subject to the following guidelines: (i) such transactions shall be effected for cash consideration at the current market price of the particular securities, and (ii) no extraordinary brokerage commissions or fees (i.e., except for customary transfer fees or commissions) or other remuneration shall be paid for effecting any such transaction.

If an entity involved in a recommended transaction is at that time owned 25% or more by SKK or affiliates of SKK, the cross transaction is deemed to involve SKK as a principal. SKK will comply with further regulatory provisions that apply where a cross transaction with a participating account is deemed to involve SKK as principal.

### Conflicts Relating to SKK Private Funds and SKK Party Investment Alongside Clients and Investors

SKK and PCM will provide appropriate clients with information and/or advice about investments in one or more of SKK's private fund offerings or other investment opportunities. Because of the potential conflicts of interest arising from such investments, it is incumbent upon such clients to independently evaluate such investments if they wish to pursue them. No such investment information or advice will be provided to institutional clients subject to ERISA.

Where SKK, SK, PCM and their members, management board members, officers, employees and affiliates (collectively called "SKK Parties") invest in private companies or funds alongside clients, or participate in management or governance, or receive compensation, including securities, for services from such companies or funds, conflicts of interest arise, including where:

- A client's investment in a private fund or company introduced by an SKK Party increases the value of an investment held by an SKK Party;
- A client's investment in a private fund or company in which an SKK Party has also invested provides liquidity to, or otherwise benefits, the private fund or company concerned;
- An SKK Party who has invested alongside a client has access to more information about the investment than the client and sells its position or buys more securities on the basis of that information;
- An SKK Party holds a different investment position in the company's or fund's capital structure than a client which creates different incentives to vote or take other actions affecting the client's investment;
- An SKK Party's investment involves certain voting rights or confers other powers to influence or participate in the governance of the investee company or fund which differ from those of a client investor. Those rights and powers can result from serving as a director or officer of an investee company or fund, in which case the member or employee would be obligated to serve the interests of the company or fund, rather than the interests of any advisory client who has invested in that company or fund; or
- An SKK Party is compensated for serving on the board or as an officer of a company or fund in which SKK Party advisory clients have invested or serves in a consulting or advisory capacity. The receipt of such compensation, or the manner in which compensation arrangements are structured, create incentives for such an SKK Party to act in a manner that does not prioritize the interests of advisory clients that are invested in the company or fund.

#### Outside Business Interests

To the extent that any SKK Party is involved in other businesses or occupations, potential conflicts of interest can arise with respect to the management of assets for investment advisory clients and investors in SKK-sponsored funds. For example, if an SKK employee is a director, officer or equivalent of a publicly traded company, or of a privately held operating company recommended to, and held in the portfolio of, a client, the employee is exposed to non-public, material information about the outside company or other companies which negatively affects the employee's trading flexibility in managing client assets. Also, the employee receives compensation, including securities, from such company, which creates a bias in favor of the company. Conflicts of interest could arise because the employee could cause accounts managed by the employee to invest in a manner that favors his business interests. Accounts managed by the employee might acquire interests in businesses that are significant existing or potential customers or suppliers to an outside business of the employee. The accounts managed by the employee might seek to acquire assets that the other business also seeks to acquire.

#### Other Conflicts

Many conflicts of interest arise between and among the various entities and persons involved in the investment advisory services provided by SKK Parties, including clients, investors in the SKK Funds, private funds or companies that issue securities acquired or sold by clients or the SKK Funds, brokers who trade securities on behalf of clients or the SKK Funds, third parties such as custodians and administrators who provide services to the SKK Parties or the SKK Funds, and other persons or entities in the financial industry. Without limitation for example, SKK Parties, clients, and SKK Funds have invested in an unrelated company, mutual fund or private investment fund and an employee of such unrelated company, mutual fund or private investment fund is a client of SKK or investor in an SKK Fund. SKK has recommended that clients invest in an unrelated private fund that (i) has directly or indirectly extended credit to or invested in a company in which SKK Parties have invested and (ii) through an affiliate of the

fund, invested in SKK Funds or joint ventured with SKK in other projects. SKK Parties have received services from companies whose securities have been introduced to clients. These examples are only indicative in general of the kinds of potential conflicts that exist. With the various interrelationships among the SKK Parties, clients, investors in the SKK Funds, companies in which investments are made, and third party service providers on the one hand, and the changing nature of the relationships and circumstances on the other hand, further conflict scenarios will likely arise.

#### Conflict Mitigation

SKK, SK and PCM will take steps that they reasonably believe will mitigate any material conflicts noted above that might arise. SKK and SK believe that potential conflicts are mitigated by their investment process, and they will provide disclosures to clients and investors regarding conflicts and potential conflicts as necessary, in addition to disclosures contained in this brochure. Additionally, executive management and compliance personnel meet regularly to address conflicts and other compliance issues, which facilitates the identification, analysis, and remediation of perceived and potential conflicts. Any material conflicts of interest that arise are discussed and resolved on a case by case basis by senior personnel of SKK, SK and PCM.

#### Accounts Managed By Rice

Daniel Rice, Portfolio Manager, has a potential conflict of interest in managing accounts for SKK that utilize the Energy strategies in whole or part. Mr. Rice has a personal beneficial interest of less than one-half of one percent (0.5%) of the common stock of EQT Corporation (“EQT”), which is a publicly traded, integrated energy company. Also, Mr. Rice’s family has other direct and indirect holdings in the stock of EQT and other family members are on the Board of EQT. In the aggregate, Mr. Rice and his family’s holdings comprise less than 3% of EQT’s outstanding stock. Mr. Rice disclaims any beneficial interest in EQT other than his own personal interest. Conflicts of interest could arise because Mr. Rice could cause accounts managed by SKK to invest in a manner that favors his interest or the interests of himself or the trust. The accounts managed by Mr. Rice reserve the flexibility, from time to time, to acquire interests in businesses that directly or indirectly compete with EQT or its affiliates, as well as businesses that are significant existing or potential customers of EQT or its affiliates. The accounts managed by Mr. Rice reserve the flexibility also to acquire assets that EQT or its affiliates seek to acquire. Mr. Rice and the Investment Manager take steps that they reasonably believe mitigate any conflicts that arise as a result of the EQT holdings of Mr. Rice and the trust.

### Item 12: Brokerage Practices

The following discussion of brokerage practices relates primarily to SKK. Because of operational differences in the brokerage practices of SKK and SK, please refer to the Form ADV Part 2A for SK for a discussion of SK’s brokerage practices.

#### I. Research and Other Soft Dollar Benefits

SKK is authorized to determine the broker or dealer to be used for each securities transaction for the accounts under its discretionary management unless otherwise arranged with the client. SKK’s policy is to seek the best overall execution of purchase or sale orders and the most favorable net prices in securities transactions, while giving due consideration to all the relevant circumstances that affect the trade, as more fully described below. In selecting brokers or dealers, SKK considers and gives weight as it deems appropriate to the integrity and financial responsibility of the broker or dealer, the execution capabilities and responsiveness of the broker or dealer, the market where the transaction is to be completed, and whether the transaction is a principal or agency trade. In addition, consideration is given to the specialized expertise

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that a broker or dealer has with a type of security (*e.g.*, options, high yield bonds, or non-U.S. securities), the manner in which the broker or dealer may handle a less liquid security, and the market information available to the broker or dealer. SKK also considers the competitiveness of the commission rates in agency trades, or the net prices in principal trades, as well as the difficulty of the execution or security positioning in light of prevailing market conditions. The quality of the broker's or dealer's back office clearance and settlement systems, and the compatibility of their systems with the systems of SKK, are similarly important.

Some brokers or dealers provide additional brokerage and research services which supplement their execution services. In selecting a broker or dealer for a trade, SKK may give weight to such supplemental services that have been provided in the past or may be provided in the future. However, SKK will not give any weight to supplemental services provided by a broker or dealer in connection with trades on behalf of its wealth management clients, including retirement plans and other clients subject to ERISA. Such other research services may include, but are not limited to, research reports; software providing analysis of securities portfolios; attendance at certain seminars and conferences; discussions with research analysts; meetings with corporate executives; data services (including company financial data); and advice from brokers on order execution. Such other brokerage services may include, but are not limited to, services and software related to the execution and settlement of securities transactions (*e.g.* connectivity services between an investment manager, a broker-dealer, and custodians, among others); trading software operated by a broker-dealer to route orders; and software that provides trade analytics. Brokerage and research services can include both proprietary services created or developed by the broker-dealer and third-party services created or developed by an unrelated source.

Some brokerage and research services may benefit SKK's clients as a whole, while others may benefit only specific accounts or a limited number of accounts. In general, most services will benefit multiple accounts. Commissions generated by a given account may or may not be related to services directly benefiting it. SKK does not seek to allocate benefits to client accounts proportionately to the brokerage credits the accounts generate.

SKK has no binding contracts with any broker or dealer as to the amount of business which the broker or dealer will receive for brokerage or research services supplied to SKK. To the extent that commissions and/or fees are paid which are higher than commissions and/or fees in the industry for the same transaction in like circumstances, and to the extent such commissions and/or fees are for, or construed to be for, brokerage and research services which are over and above the trade execution services provided, SKK believes that such commissions and/or fees are not unreasonable and are permissible under Section 28(e) of the Securities Exchange Act of 1934, when viewed in terms of SKK's overall responsibilities with respect to the accounts managed. In the case of the purchase of fixed income securities in underwriting transactions, SKK may similarly place orders with brokers or dealers which have provided SKK with brokerage and research services. The commissions and fees include markups, markdowns, commission equivalents and any other fees or transaction costs paid to a broker or dealer in connection with the execution of an agency or principal trade, as allowed under the authority or regulatory guidance in this area.

When SKK uses client brokerage commissions (or markups or markdowns) to obtain brokerage or research services, SKK receives a benefit because SKK does not have to pay for the brokerage and research services. SKK may have an incentive to select a broker-dealer based on SKK's interest in receiving the brokerage or research services, rather than on the client's interest in receiving most favorable execution. During the last fiscal year, SKK acquired brokerage and research services relating to the investment potential of particular securities across a spectrum of industries including energy, and market valuation and sentiment, and the securities markets generally. The placement of transactions for client accounts with a particular broker-dealer can be very subjective based on a consideration of many factors as described above.

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## II. Brokerage for Client Referrals

Not applicable

## III. Directed Brokerage

In the event that a client of SKK requests that orders for the client's account be directed to specific brokers or dealers, SKK will attempt to abide by the request to the extent practical under the circumstances. A client who requests the use of a particular broker or dealer may, however, lose the possible benefits (more favorable price or lower commission or other transaction costs), that other clients derive from the bundling of orders for multiple accounts. Also, the execution of orders for clients that have designated particular brokers may occur after other orders have been consummated.

## IV. Aggregation of Orders and Allocation

When SKK plans to buy or sell the same security for multiple accounts at approximately the same time, SKK may group orders of various accounts in an effort to realize a better overall price or commission. While a large transaction may affect the price of shares acquired or sold, SKK believes that the bunching of orders generally provides an advantage in execution. Where an aggregate order is placed with a given broker who fills the order through a series of smaller transactions at various prices throughout a given day, each transaction is allocated among the same participating accounts generally in proportion to the relative assets of the participating account or to facilitate balancing among accounts. Where orders for a given security may be executed throughout the day for varying participating accounts, the orders may not be aggregated because of timing between orders, price limits set for different accounts, or other differentiating circumstances. SKK may decide not to group orders, however, where aggregation might result in higher custodial and other transactional costs for a participating account.

An aggregated order is processed in a manner that is deemed fair and equitable to all accounts. In allocating investments among various accounts, including investments in securities issued in initial public offerings, SKK will take into account such factors as the investment objectives of the accounts, the specialized nature of the account, the amount of investment funds available in each account, the size of the order, the relative sizes of the accounts, and the risks of the investment.

For accounts with similar investment objectives and strategies and the same portfolio manager, SKK will, under normal circumstances, allocate a security among accounts as a percent of each account's assets. Proportionate allocations may not be made where accounts or portfolio managers are different however. For example, a small, specialized account, such as a new fund which primarily invests in a given sector, may receive a relatively larger allocation of a sector stock than other accounts. At other times too, SKK may not be able to allocate trades in a security proportionally across accounts. Options might be exercised in the marketplace, for instance, and the exercises can, in accordance with established procedures in the industry, be assigned in a random manner to persons who hold written positions, which can impact SKK's accounts in a disproportionate way. Sometimes, allocations are made on the basis of administrative efficiency, to avoid odd lots or to provide for a minimum lot of 100 shares, among other things. Allocations may also be made to balance the relative amount of a security held in an account to help meet weighting parameters.

## V. Other

SKK retains broad flexibility in the manner in which broker trading errors are handled, depending on materiality and the particular facts and circumstances involved. In the event of a broker trading error, a broker may address the error by adjusting its commissions. SKK may also defer and aggregate adjustments

for a year-end posting to accounts when it is administratively more efficient to do so. SKK may, among other things, utilize a proprietary account to segregate the effects of a particular transaction.

### Item 13: Review of Accounts

Accounts managed and/or advised solely by SKK are reviewed by one or more portfolio managers. The portfolio managers utilize a number of reports on the portfolio holdings of client accounts which are generated regularly or are otherwise available on SKK's information systems. The account review process is continuous, and these reports are reviewed on an ongoing basis, often daily, by one or more of the portfolio managers. Differing reports provide security by security performance tracking, show net positions in individual securities that are long and short, and give similar data on other micro and macro aspects of the portfolios and their performance. The review and analysis of the various reports are an integral part of SKK's investment decision making process.

In addition to the continuous review of various reports, for many clients an investment report is produced monthly for a managed private investment fund and for investors in the fund. This report includes information on a number of diverse account characteristics. The report indicates how the portfolio is allocated among long and short positions in different industry sectors, how the account has performed against broad indicators, and how the account has performed since the account's inception. The monthly report is available in hard copy or by email to investors in the funds.

SKK's Fund Administrator produces for SKK-sponsored real estate and venture capital funds quarterly balance sheet and income statement reports. Investors in such funds receive quarterly capital account statements that reflect their starting balance, any account activity during a given period, and their ending balance.

Reports are also available for the other institutional separate accounts. These reports are produced on a customized basis monthly or quarterly as may be requested and contain whatever data is relevant to a particular separate account.

In an effort to protect the confidentiality of portfolio positions, SKK generally will not disclose all positions in a portfolio. However, SKK, in its sole discretion, may permit such disclosure to certain investors in the private investment funds that SKK manages, and to prospective investors and consultants, on a selective basis, if SKK determines that such disclosure is appropriate. Further, a private investment fund may not disclose its investment positions in its annual financial statements, if it determines that such confidential treatment is desirable.

See SK's form ADV Part 2A for information on the review of accounts sub-advised by SK.

### Item 14: Client Referrals and Other Compensation

SKK has employees who are involved in marketing SKK's services and products to prospective and existing clients or investors. These employees also have other responsibilities and functions with SKK in the investment, administrative, marketing and/or operational areas of the business and may engage in the solicitation of clients or investors to varying extents. SKK's employees, related investment advisers and outside service providers provide input and services relating to the business of SKK with respect, but not limited, to broad planning for the development of the business of SKK, product development, communications, domestic and international investor needs, investor demographics, marketing, investor relations, further outside service needs, and related matters.

SKK from time to time utilizes the services of a related investment adviser and broker dealer, and outside service providers to solicit or refer clients, or investors who may be interested in investing in the private investment funds managed by SKK. Outside service providers, such as finders and broker dealers, may receive compensation which is a flat fee, a percentage commission, or a percentage of the amount of management fees, and incentive allocation, paid on assets that the person was primarily responsible for placing under the management of SKK in separately managed accounts or in private investment funds.

As noted above in Item 5 (II)(D) Other Fee Information, the general partner or manager of a private investment fund sponsored by SKK may deduct a percentage of the amount invested by an investor in the private investment fund to pay sales fees or charges, on a fully disclosed basis, to a broker-dealer, placement agent or other person based upon the capital contribution of such investor introduced to the private investment fund by such broker-dealer, placement agent, or other outside service provider. Any such sales fees or charges would (i) be assessed against the referred investor, (ii) not be a capital contribution of the investor, and (iii) reduce the amount actually invested by such investor in the private investment fund. Such assumption of expenses by investors benefits SKK by increasing assets under SKK management.

The compensation paid to employees, a related investment adviser or broker dealer, or outside service providers, to the extent any part of it may be deemed to be for the solicitation or referral of clients, is intended to be in compliance with Rule 206(4)-3 under the Investment Advisers Act of 1940.

## Item 15: Custody

Pursuant to Rule 206(4)-2 SK is deemed to have custody of client assets for certain accounts. SK uses qualified institutional custodians to hold client funds, who will provide account statements directly to account holders no less frequently than quarterly. Clients should carefully review those account statements and are urged to compare them to reports provided by SK.

SKK also has a form of custody of funds and securities of clients where an entity that has legal ownership or authority over that client's funds or securities is a related person of SKK, including the general partners of private funds sponsored and advised by SKK.

SKK may be deemed to have custody of certificates for certain privately offered securities held in the portfolio of SKK Ventures, LLC, although SKK is not required to maintain them in an account with a qualified custodian. SKK has adopted procedures to safeguard all certificates in its custody for SKK Ventures, LLC. SKK maintains such certificates in accordance with relevant regulatory provisions to the extent applicable. Clients that receive account statements from a broker-dealer, bank or other qualified custodian should carefully review those statements, and compare them to any account statements they receive from SKK and SK.

## Item 16: Investment Discretion

SKK manages client accounts pursuant to discretionary or non-discretionary authority granted to SKK under an investment management agreement. Clients may place limits on such authority. (Generally, see the discussion under Item 4, Advisory Business, relating to the investment discretion that SKK exercises in managing securities accounts on behalf of clients.)

## Item 17: Voting Client Securities

The following discussion of proxy voting practices relates primarily to SKK. SK does not vote proxies.

SKK may be authorized by its clients to vote proxies relating to the companies whose securities are held in the portfolios of the accounts managed by directly SKK. SKK does not vote proxies on behalf of wealth management clients.

Where applicable, SKK manages assets solely in the best interest of the clients and votes proxies in a manner which is consistent with those interests, and which will add to, or maintain, the value to the clients' investments. Clients, however, can assume direct responsibility for voting the securities in their own portfolios if desired.

Occasions may arise where the voting of specific proxies may present an actual or perceived conflict of interest between SKK, as the investment manager, and its institutional clients. Hypothetically, potential conflict situations could arise where SKK provides advisory services to a client, such as a private investment fund, and an investor in the private investment fund is a company, or a person associated with a company, that is soliciting a proxy. Similarly, SKK may provide advisory services to a separately managed account for a pension plan of a public company, and securities issued by the public company may be held in other accounts managed by SKK. In addition, a Managing Member or other investment personnel could have a personal or material business relationship with the participants in a proxy contest, or with the directors of, or candidates for, a company board.

While there may be potential appearances of conflicts of interest that could conceivably arise, SKK seeks to avoid even the appearance of impropriety and believes that it is unlikely that any actual, material conflicts will in fact arise. SKK's investment personnel must advise the Chief Compliance Officer or legal staff, if they are aware of any actual or potential conflicts of interest that may exist with regard to how proxies are to be voted in respect of any portfolio companies. No weight will be given to any relationships with companies or relationships with persons soliciting proxies, and SKK will vote proxies solely on the basis of the best interests of the relevant client account. Any individual at SKK with a potential conflict may not participate in any aspect of SKK's decision making in determining how the subject proxy is voted.

As described below, SKK currently uses an independent proxy voting service to provide research, voting recommendations and related services. The service providers perform similar services for many other financial institutions in addition to SKK. In doing their analysis and formulating its recommendations, the service providers act without regard or likely knowledge of any specific conflicts that may exist between an issuer and SKK. Such use of an independent service and reliance on its separate research provides further insulation from, and protection against, any conflicts that an issuer and SKK may have.

SKK does not have any fixed policies on how to vote on given proxy proposals. SKK believes that each proposal must be considered in light of the company's particular context. Each proxy proposal is subject to evaluation individually, based on a consideration of the facts and circumstances that bear on the proposal at the time. SKK may also refrain from voting a proxy if that would be in the best interests of the client account. For example, SKK may determine that any benefit the client might gain from voting a proxy would be outweighed by the direct or indirect administrative burdens of casting the vote. The benefit may be elusive because of, for example, the relative amount of out-of-pocket expense or staff time required to research and evaluate the proposal properly. Similarly, SKK may decline to vote a proxy because of the investment impact of a proxy regulation, where, for example, SKK might be unable to sell certain foreign securities because an applicable foreign requirement would require that the securities be placed in escrow during the balloting period. Where appropriate, SKK may also abstain on a proposal because of the ambiguity of the effect of the proposal.

SKK may delegate authority to an independent proxy voting agent to perform various proxy voting functions. Such a voting agent would be responsible for casting ballots based SKK's instructions with

respect to the portfolio securities in the accounts managed by SKK. In determining how to vote particular proxies, SKK obtains research and voting recommendations from outside service providers, which can include the voting agent and/or a separate firm. Voting recommendations are based on an analysis of an array of detailed company information, industry data, the company's performance, and other considerations of relevance given the particular proposal. The analytical approach may be modified as appropriate in light of changes in the business environment over time.

In most instances, votes will be cast in accordance with the service provider's recommendations. However, SKK may instruct the service provider to vote contrary to, or otherwise differently from, the service provider's recommendation. In addition to casting ballots, and providing research and recommendations, the service providers also perform related record keeping and administrative functions.

SKK's proxy voting policies may be amended from time to time without prior notice to clients. SKK feels that it must retain wide flexibility to adapt its proxy voting policies as appropriate to best fit the interests of its client accounts and the changing investment environment.

A client with an investment management agreement with SKK may obtain a copy of SKK's Proxy Voting Policies and/or information on how SKK voted such client's portfolio securities by contacting SKK.

## Item 18: Financial Information

In the first quarter of 2020, the unprecedented events surrounding the world-wide COVID-19 pandemic resulted in significant market dislocations and global financial losses across all equity and fixed income securities markets. In order to stabilize businesses across the US, the federal government implemented a financial stimulus plan which included the provision of Payroll Protection Plan ('PPP') loans to businesses in an effort to provide some financial support during this period of economic uncertainty. In addition to the near-term threat to revenue posed by the prospect of continued market volatility, SKK and SK (all of whose revenue is derived from SKK) wanted to prepare for the economic dislocations and possible medium-term challenges presented by COVID-19 related to revenue and access to credit. SKK opted to accept a PPP loan in the amount of \$950,500. The PPP loan is intended to provide financial support that will help ensure that SKK and SK will be able to retain current staff, including advisory personnel, and maintain operations throughout this challenging period. SKK believes that it has the financial resources to perform its obligations to its clients.

## Item 19: Requirements for State-Registered Advisers

Not applicable

# Part 2B of Form ADV: Brochure Supplement

Stephen M. Brackett

Shepherd Kaplan Krochuk, LLC  
125 Summer Street, 22<sup>nd</sup> Floor  
Boston, MA 02110  
617-896-1609

This brochure supplement provides information about Stephen Brackett that supplements the Shepherd Kaplan Krochuk, LLC brochure. You should have received a copy of that brochure. Please contact Shepherd Kaplan Krochuk, LLC at 617-896-1600 if you did not receive Shepherd Kaplan Krochuk, LLC's brochure or if you have any questions about the contents of this supplement. Additional information about Stephen Brackett is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

April 30, 2020

SHEPHERD KAPLAN KROCHUK, LLC  
125 Summer Street, 22nd Floor, Boston, MA 02110  
T: 617-896-1600  
F: 617-896-1650  
[www.skk-llc.com](http://www.skk-llc.com)

## **Item 2 Educational Background and Business Experience**

**Name:** Stephen M. Brackett

**Year of Birth:** 1963

**Formal Education Post High School:**

Bates College	BA, Political Science	1985
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**Business Background for the preceding five years (including identification of specific positions held):**

Shepherd Kaplan Krochuk, LLC Management Board	02/2020 – Present
Shepherd Kaplan Krochuk, LLC President	08/2019 – Present
Shepherd Kaplan Krochuk, LLC Managing Director	06/2018 – 08/2019
Infusion Global Partners, LLC Co-Founder and Managing Partner	06/2014 – 08/2017

Steve is President of SKK, Co-Head of Alternative Investments for SKK's Asset Management Division and Chairman of SKK's Private Equity Committee. He is primarily responsible for managing and developing alternative investment initiatives.

## **Item 3 Disciplinary Information**

Steve has no legal or disciplinary events material to a client's or prospective client's evaluation of the supervised person.

## **Item 4 Other Business Activities**

Steve is a director or equivalent of the following:

Managing Board member of Provident Healthcare Partners, LLC, a portfolio company of one of SKK's affiliated private investment funds (SKK Funds) that provides M&A Advisory services to healthcare companies.

BioDirection, Inc. a portfolio company of one of SKK's Funds that has developed a point of care testing device for diagnosis of TBI (concussion) and other applications. Steve is also an investor in the company.

Trellis Software, Inc. (Trellis), in which SKK has a minority equity interest, is developing software systems for financial service firms and investors. When available, SKK expects to use the company's services to support SKK Funds. Tim Krochuk, an indirect owner and Management Board member of SKK, is the Chief Executive Officer and a director of Trellis and also has a minority equity interest.

Steve is an indirect owner and member of the Management Board of SKK. He is also a managing member of SKK Group, LLC (SKKG), which serves as the managing member of the general partner of several SKK Funds, some of which are available to wealth management clients. Steve's interest in SKK and SKKG and his service on the boards of companies in which SKK and SKK Funds have invested, and his investment in one such company, together with similar activities by other owners of SKK, and certain other relationships, create conflicts of interest with some clients of the firm. Those conflicts are described in more detail in Item 11 of SKK's Form ADV Part 2A brochure, a copy of which has been provided to clients who receive this brochure.

SKK believes that potential conflicts are mitigated by the fee structure and investment process. Clients who invest in one or more SKK Funds will not be charged both wealth management fees and fund management fees on the same assets. SKK will provide disclosures regarding conflicts and potential conflicts to any clients to which it recommends investments in private equity funds and at other times as necessary, in addition to the disclosures provided in this brochure. Additionally, executive management and compliance personnel

meet periodically, which facilitates the identification, analysis, and remediation of perceived and potential conflicts.

SKK also seeks to address these conflicts through review of its member and employee investments, as described in the discussion of personal trading in Item 11 of SKK's Form ADV Part 2A brochure, and by monitoring of client investment portfolios. SK seeks to ensure that recommendations are provided on a fully disclosed basis and only when aligned with its clients' bests interests.

## **Item 5 Additional Compensation**

As an indirect owner of SKK entitling him to a percentage of the profits of SKK, Steve has an economic interest in advisory services provided by the firm. As a managing member of SKKG, Steve is eligible for compensation based on a percentage of the profits of SKK Funds, some of the investors of which are advisory clients.

## **Item 6 Supervision**

Along with Tim Krochuk, Steve is Co-Head of Alternative Investments for the Asset Management Division of the firm (Division), and Chairman of the Private Equity Committee (Committee), which manages the private equity investment process for the Division. In these roles, he collaborates with Tim and other members of the Committee, providing supervision for personnel providing advisory services related to private equity investments, and also providing a form of peer supervision for Steve, Tim and the other members of the Management Board, all of whom serve on the Committee.

Steve is also an indirect owner of SKK and member of the firm's Management Board, which reviews the performance of all of its members. This ownership and management structure allows the members to maintain involvement in the work of, and provide guidance and relevant input for, the other members. If you have questions about Steve's Form ADV Brochure Supplement, please call Tim Krochuk.

Tim Krochuk

Management Board

617-896-1603

# Part 2B of Form ADV: Brochure Supplement

Timothy A. Krochuk

Shepherd Kaplan Krochuk, LLC  
125 Summer Street, 22<sup>nd</sup> Floor  
Boston, MA 02110  
617-896-1603

This brochure supplement provides information about Timothy Krochuk that supplements the Shepherd Kaplan Krochuk, LLC brochure. You should have received a copy of that brochure. Please contact Shepherd Kaplan Krochuk, LLC at 617-896-1600 if you did not receive Shepherd Kaplan Krochuk, LLC's brochure or if you have any questions about the contents of this supplement. Additional information about Timothy Krochuk is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

April 30, 2020

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F: 617-896-1650  
[www.skk-llc.com](http://www.skk-llc.com)

## **Item 2 Educational Background and Business Experience**

**Name:** Timothy A. Krochuk

**Year of Birth:** 1969

### **Formal Education Post High School:**

Harvard College	AB, Economics	1992
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### **Business Background for the preceding five years (including identification of specific positions held):**

Shepherd Kaplan Krochuk, LLC ("SKK") Management Board	02/2020 - Present
Shepherd Kaplan Krochuk, LLC Co-CEO, Managing Member	11/2017 – 02/2020
GRT Capital Partners, LLC Co-Founder, Managing Director	06/2001 - 10/2017

Tim is Co-Head of Alternative Investments for SKK's Asset Management Division. He is actively involved in the development of SKK's intellectual property, consulting tools and technological capabilities. He is a Portfolio Manager for the private equity investment funds including real estate funds. Mr. Krochuk holds the Chartered Financial Analyst designation\*.

[Note: \* CFA charter holders must: 1) pass three six-hour examinations; 2) have at least four years of qualified professional investment experience; 3) join CFA Institute as members; and 4) commit to adherence to the CFA Institute Code of Ethics and Standards of Professional Conduct.]

## **Item 3 Disciplinary Information**

Tim has no legal or disciplinary events material to a client's or prospective client's evaluation of the supervised person.

## **Item 4 Other Business Activities**

Tim is the Chief Executive Officer and a director of Trellis Software, Inc. (Trellis), which is developing software systems for financial service firms and investors. Tim and SKK have minority equity interests in Trellis. When available, SKK expects to use the company's services to support its affiliated private investment funds (SKK Funds). SKK monitors the relationship with Trellis to assure that potential conflicts with respect to the services it receives, Tim's time commitment and other matters will not become material conflicts with the interests of either SKK or its clients.

Tim is also a stockholder and director of FBHC Holding Company (FBHC), a privately held bank holding company that provides financial services to SKK and SKK Funds. Tim also serves as a director of Windgap, Medical, Inc., a portfolio company of one of SKK's Funds that has developed the Andi-Pen, an injection device for epinephrine and other applications. As a director, Tim has received options on the stock of Windgap.

Tim is an indirect owner and member of the Management Board of SKK. He is also a managing member of SKK Group LLC (SKKG), which serves as the managing member of the general partner of several SKK Funds, some of which are available to wealth management clients. Tim's interest in SKK and SKKG and his interests in and service for Trellis and on the boards of Trellis and companies in which an SKK Fund has invested, together with similar activities by other owners of SKK, and certain other relationships, create conflicts of interest with some advisory clients. Those conflicts are described in Item 11 of SKK's Form ADV Part 2A brochure, a copy of which has been provided to clients who receive this brochure.

SKK believes that potential conflicts are mitigated by the fee structure and investment process. Wealth management clients who invest in one or more SKK Funds will not be charged both wealth management fees and fund management fees on the same assets. SKK will provide disclosures regarding conflicts and potential conflicts to any clients to whom it recommends investments in SKK Funds and otherwise as necessary, in addition to the disclosures provided in this brochure. Additionally, executive management and compliance

personnel meet periodically, which facilitates the identification, analysis, and remediation of perceived and potential conflicts.

SKK also seeks to address these conflicts through review of its member and employee investments, as described in the discussion of personal trading in Item 11 of SKK's Form ADV Part 2A brochure, and by monitoring of client investment portfolios. SKK seeks to ensure that recommendations are provided on a fully disclosed basis and only when aligned with its clients' bests interests.

## **Item 5 Additional Compensation**

As an indirect owner of SKK entitling him to a percentage of the profits of SKK, Tim has an economic interest in advisory services provided by the firm. As a managing member of SKKG, Tim is eligible for compensation based on a percentage of the profits of SKK Funds, some of the investors of which are advisory clients.

## **Item 6 Supervision**

Along with Steve Brackett, Tim is Co-Head of Alternative Investments for the Asset Management Division of the firm (Division), and a member of the Private Equity Committee (Committee), chaired by Steve, which manages the private equity investment process for the Division. In this role, he collaborates with Steve and other members of the Committee, providing supervision for personnel providing advisory services related to private equity investments, and providing a form of peer supervision for Tim, Steve and the other members of the Management Board, all of whom serve on the Committee.

Tim is an indirect owner of SKK and member of the firm's Management Board, which reviews the performance of all of its members. This ownership and management structure allows the members to maintain involvement in the work of, and provide guidance and relevant input for, the other members. If you have questions about Tim's Form ADV Brochure Supplement, please call Steve Brackett.

Steve Brackett

President

617-896-1609

# Part 2B of Form ADV: Brochure Supplement

## David Shepherd

Shepherd Kaplan Krochuk, LLC  
125 Summer Street, 22<sup>nd</sup> Floor  
Boston, MA 02110  
617-896-1601

This brochure supplement provides information about David Shepherd that supplements the Shepherd Kaplan Krochuk, LLC brochure. You should have received a copy of that brochure. Please contact Shepherd Kaplan Krochuk, LLC at 617-896-1600 if you did not receive Shepherd Kaplan Krochuk, LLC's brochure or if you have any questions about the contents of this supplement. Additional information about David Shepherd is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

April 30, 2020

SHEPHERD KAPLAN KROCHUK, LLC  
125 Summer Street, 22nd Floor, Boston, MA 02110  
T: 617-896-1600  
F: 617-896-1650  
[www.sk-llc.com](http://www.sk-llc.com)

## **Item 2 Educational Background and Business Experience**

**Name:** David Shepherd

**Year of Birth:** 1968

**Formal Education Post High School:**

Boston University	BS, Economics	1991
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**Business Background for the preceding five years (including identification of specific positions held):**

Shepherd Kaplan Krochuk, LLC	Management Board	02/2020 - Present
Shepherd Kaplan Krochuk, LLC	Co-CEO, Managing Member	11/2017 – 02/2020
Shepherd Kaplan LLC	Co-CEO	11/2017 - Present
	Managing Member, Co-Founder	1/1998 – 10/2017

David, together with David Kaplan, is responsible for managing the Wealth Management Division of Shepherd Kaplan Krochuk, LLC (SKK), which is sub-advised by Shepherd Kaplan LLC (SK), a controlled subsidiary of SKK. David is primarily responsible for the Institutional Advisory Practice, including development of investment research and fiduciary consulting resources. He also co-chairs SKK's Wealth Management Investment Committee.

## **Item 3 Disciplinary Information**

David has no legal or disciplinary events material to a client's or prospective client's evaluation of the supervised person.

## **Item 4 Other Business Activities**

David is a director of the following:

Cristcot, LLC, a portfolio company of one of SKK's private investment funds (SKK Funds) that has developed an improved method of delivering suppository medications for ulcerative colitis and other applications;

Make-A-Wish Foundation; and

Etiometry, Inc., a company that has developed a system that aggregates ICU patient data and provides real time predictive analytics; SKK holds an option to acquire a minority equity interest and provides certain accelerator consulting services to the company.

David is an indirect owner and a member of the Management Board of SKK. David is also a managing member of SKK Group, LLC (SKKG), which serves as the managing member of the general partner of several SKK Funds, some of which are available to advisory clients. David's interest in SKK and SKKG and his service on the boards of companies in which SKK or an SKK Fund has an equity interest, together with similar relationships involving other owners of SKK, and certain other relationships, create conflicts of interest with some advisory clients. Those conflicts are described in more detail in Item 11 of SKK's Form ADV Part 2A brochure, a copy of which has been provided to clients who receive this brochure.

SK and SKK believe that potential conflicts are mitigated by the fee structure and investment process. SKK advisory clients who invest in one or more SKK Funds will not be charged both wealth management fees and fund management fees on the same assets. SKK will provide disclosures regarding conflicts and potential conflicts to any SKK advisory clients to whom it recommends investments in SKK Funds and otherwise as necessary, in addition to the disclosures in this brochure. Additionally, executive management and compliance personnel meet periodically, which facilitates the identification, analysis, and remediation of perceived and potential conflicts.

SK and SKK also address these conflicts through review of member and employee investments, as described in the discussion of personal trading in Item 11 of SKK's Form ADV Part 2A brochure, and by monitoring of client investment portfolios. SK and SKK seek to ensure that recommendations are provided on a fully disclosed basis and only when aligned with clients' bests interests.

## **Item 5 Additional Compensation**

As an indirect owner of SKK entitling him to a percentage of the profits of SKK, David has an economic interest in advisory services provided by the firm. As a managing member of SKKG, David is eligible for compensation based on a percentage of the profits of SKK Funds, some of the investors in which are advisory clients.

## **Item 6 Supervision**

As Co-CEO's of SK and Co-Chairs of the SKK Wealth Management Investment Committee (IC), David Shepherd and David Kaplan supervise the personnel providing investment advice to clients of SKK's Wealth Management Division, which is sub-advised by SK. Client investment accounts are managed in accordance with certain parameters specified in the clients' Investment Policy Statements, as well as policies and procedures designed to assure compliance with regulatory requirements and good business practice, and with direction and guidance from the IC and the SKK Research Department. The IC Co-Chairs review client accounts, making use of the firm's proprietary software system that provides visibility into the accounts, as well as frequent meetings with advisory personnel. As Co-CEO's of SK and Co-Chairs of the IC, they collaborate with each other on investment strategies and the management of wealth management client accounts, which provides a form of peer supervision for each of them.

David, along with the other members of the Management Board, is a member of the SKK Private Equity Committee (Committee), chaired by Steve Brackett, which manages the private equity investment process for the Asset Management Division. In this role David collaborates with the other Committee members, which provides a form of peer supervision for the members of the Management Board. Also, the Management Board reviews the performance of all its members, allowing the members to maintain involvement in the work of, and provide guidance and relevant input for, the other members. If you have questions about David's Form ADV Brochure Supplement, please call David Kaplan.

David Kaplan

Co-CEO, Shepherd Kaplan LLC

617-896-1602

# Part 2B of Form ADV: Brochure Supplement

David Kaplan

Shepherd Kaplan Krochuk, LLC  
125 Summer Street, 22<sup>nd</sup> Floor  
Boston, MA 02110  
617-896-1602

This brochure supplement provides information about David Kaplan that supplements the Shepherd Kaplan Krochuk, LLC brochure. You should have received a copy of that brochure. Please contact Shepherd Kaplan Krochuk, LLC at 617-896-1600 if you did not receive Shepherd Kaplan Krochuk, LLC's brochure or if you have any questions about the contents of this supplement. Additional information about David Kaplan is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

April 30, 2020

SHEPHERD KAPLAN KROCHUK, LLC  
125 Summer Street, 22nd Floor, Boston, MA 02110  
T: 617-896-1600  
F: 617-896-1650  
[www.skk-llc.com](http://www.skk-llc.com)

## **Item 2 Educational Background and Business Experience**

**Name:** David Kaplan

**Year of Birth:** 1969

### **Formal Education Post High School:**

University of Massachusetts BA, Literature 1991

### **Business Background for the preceding five years (including identification of specific positions held):**

Shepherd Kaplan Krochuk, LLC	Management Board	02/2020 - Present
	Co-CEO, Managing Member	11/2017 - 02/2020
Shepherd Kaplan LLC	Co-CEO	11/2017 - Present
	Managing Member, Co-Founder	1/1998 - 10/2017

David, together with David Shepherd, is responsible for managing the Wealth Management Division of Shepherd Kaplan Krochuk, LLC (SKK), which is sub-advised by Shepherd Kaplan LLC (SK), a controlled subsidiary of SKK. David is primarily responsible for the Private Wealth Practice, including related operations and is actively involved in development of the firm's intellectual property, consulting tools and technology. He also co-chairs SKK's Wealth Management Investment Committee, together with David Shepherd.

## **Item 3 Disciplinary Information**

David has no legal or disciplinary events material to a client's or prospective client's evaluation of the supervised person.

## **Item 4 Other Business Activities**

David is an indirect owner and a member of the Management Board of SKK. David is also a managing member of SKK Group, LLC (SKKG), which serves as the managing member of the general partner of several private investment funds (SKK Funds), some of which are available to advisory clients. These relationships, together with certain relationships involving other owners of SKK with companies in which SKK or SKK Funds invest, and certain other relationships, create conflicts of interest with some advisory clients. Those conflicts are described in more detail in Item 11 of SKK's Form ADV Part 2A brochure, a copy of which has been provided to clients who receive this brochure.

SK and SKK believe that potential conflicts are mitigated by the fee structure and investment process. SKK advisory clients who invest in one or more SKK Funds will not be charged both wealth management fees and fund management fees on the same assets. SKK will provide disclosures regarding conflicts and potential conflicts to any SKK advisory clients to whom it recommends investments in SKK Funds and otherwise as necessary, in addition to the disclosures in this brochure. Additionally, executive management and compliance personnel meet periodically, which facilitates the identification, analysis, and remediation of perceived and potential conflicts.

SK and SKK also address these conflicts through review of member and employee investments, as described in the discussion of personal trading in Item 11 of SKK's Form ADV Part 2A brochure, and by monitoring of client investment portfolios. SK and SKK seek to ensure that recommendations are provided on a fully disclosed basis and only when aligned with clients' bests interests.

## **Item 5 Additional Compensation**

As an indirect owner of SKK entitling him to a percentage of the profits of SKK, David has an economic interest in advisory services provided by the firm. As a managing member of SKKG, David is eligible for

compensation based on a percentage of the profits of SKK Funds, some of the investors in which are advisory clients.

## **Item 6 Supervision**

As Co-CEO's of SK and Co-Chairs of the SKK Wealth Management Investment Committee (IC), David Shepherd and David Kaplan supervise the personnel providing investment advice to clients of SKK's Wealth Management Division, which is sub-advised by SK. Client investment accounts are managed in accordance with certain parameters specified in the clients' Investment Policy Statements, as well as policies and procedures designed to assure compliance with regulatory requirements and good business practice, and with direction and guidance from the IC and SKK Research Department. The IC Co-Chairs review client accounts, making use of the firm's proprietary software system that provides visibility into the accounts, as well as frequent meetings with advisory personnel. As Co-CEO's of SK and Co-Chairs of the IC, they collaborate with each other on investment strategies and the management of wealth management client accounts, which provides a form of peer supervision for each of them.

David, along with the other members of the Management Board, is a member of the Private Equity Committee (Committee), chaired by Steve Brackett, which manages the private equity investment process for SKK's Asset Management Division. In this role David collaborates with the other Committee members, which provides a form of peer supervision for the members of the Management Board. Also, the Management Board reviews the performance of all its members, allowing the members to maintain involvement in the work of, and provide guidance and relevant input for, the other members. If you have questions about David's Form ADV Brochure Supplement, please call David Shepherd.

David Shepherd

Co-CEO, Shepherd Kaplan LLC

617-896-1601

# Part 2B of Form ADV: Brochure Supplement

Brian D. Lockhart

9250 E Costilla Avenue Suite 430  
Greenwood Village, CO 80112  
719-201-7765

**This brochure supplement provides information about Brian Lockhart that supplements the Shepherd Kaplan Krochuk, LLC, LLC brochure. You should have received a copy of that brochure. Please contact Shepherd Kaplan Krochuk, LLC at 617-896-1600 if you did not receive Shepherd Kaplan Krochuk, LLC's brochure or if you have any questions about the contents of this supplement. Additional information about Brian Lockhart is available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).**

April 30, 2020

SHEPHERD KAPLAN KROCHUK, LLC  
125 Summer Street, 22<sup>nd</sup> Floor, Boston MA 02110  
T: 617-896-1600  
[www.skk-llc.com](http://www.skk-llc.com)

## **Item 2 Educational Background and Business Experience**

**Name:** Brian D. Lockhart

**Year of Birth:** 1966

### **Formal Education Post High School:**

California Polytechnic State University	B.S., Business Administration	1988
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Kennedy School of Government	Exec. Ed. Course: Investment Decisions & Behavioral Finance	2017
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### **Business Background for the preceding five years (including identification of specific positions held):**

Shepherd Kaplan Krochuk, LLC (SKK)	Owner, Management Board Member	02/2020 – Present
Peak Capital Management, LLC (PCM) Founder, CEO, Chief Investment Officer		11/2006 – Present

Brian is primarily responsible for serving as co-portfolio manager of PCM's suite of strategies. As of February 2020, he is also an indirect owner and serves on the Management Board of SKK, which is the owner and managing member of PCM. Also, as of February 2020, Brian is a managing member of SKK Group, LLC (SKKG), which serves as the managing member of the general partner or manager of a number of private investment funds affiliated with SKK (SKK Funds). Brian is a member of the SKK Private Equity Committee (Committee), which manages the private equity investment process for the SKK Asset Management Division.

## **Item 3 Disciplinary Information**

In February 2020 Brian entered into a Stipulation for Consent Order with the Colorado Division of Securities ("Stipulation"). In the Stipulation, the Staff of the Division (the "Staff") alleged that in 2012 and 2013 Brian recommended an investment in a movie production company to some advisory clients and others regarding which he, as an Executive Producer, had a material conflict of interest that he maintains he disclosed orally to all of the clients. Multiple clients acknowledged such oral disclosure. The Staff determined that this recommendation was inconsistent with Brian's obligations under Division Rule 51-4.8(IA)(K), which requires such disclosures to be made in writing. Under the Consent Order, Brian agreed not to violate Rule 51-4.8(IA)(K). No fine or other penalty was assessed.

## **Item 4 Other Business Activities**

Brian is an indirect owner of PCM Tax Lien Fund, LP, a private fund that invests in tax liens. The Fund has been offered to advisory clients of PCM, however, it closed to new investors as of March 2017. The Fund is not acquiring new assets and is selling off the existing liens. Brian spends less than 10% of his time with this outside business activity.

Brian participates in other outside businesses. None of these businesses, however, are investment-related nor do they constitute a large amount of time or income deemed to be substantial.

The relationships of Brian and the other owners of SKK with the SKK Funds and with companies in which SKK or such Funds invest, and certain other relationships, create conflicts with some clients of SKK and PCM who invest in SKK Funds. Those conflicts and how the firm mitigates them are described in more detail in Item 11 of SKK's Form ADV Part 2A brochure, a copy of which has been provided to clients who receive this brochure. In particular, Brian has additional personal financial interests in SKK Opportunity Zone Fund I Manager, LLC and SKK Opportunity Zone fund I, LLC.

## **Item 5 Additional Compensation**

As an indirect owner of SKK entitling him to a percentage of the profits of SKK, Brian has an economic interest in advisory services provided by SKK and PCM. As a managing member of SKKG, he is entitled to a percentage of the profits of the SKK Funds, some of the investors of which are advisory clients of SKK and PCM.

## **Item 6 Supervision**

Brian is a member of the Management Board of SKK, which reviews the performance of all of its members.

Brian, along with the other members of the Management Board, is a member of the SKK Private Equity Committee (Committee), chaired by Steve Brackett, which manages the private equity investment process for the SKK Asset Management Division. In this role Brian collaborates with the other Committee members, which provides a form of peer supervision for the members of the Management Board. If you have any questions about Brian's SKK Form ADV Brochure Supplement, please call Steve Brackett.

Steve Brackett      President, Management Board, Shepherd Kaplan Krochuk, LLC      617-896-1609

# Investor ID Requirements

Page 1 of 3



## FOR INVESTORS AS INDIVIDUALS

- |                      |   |
|----------------------|---|
| <b>FUND DOCUMENT</b> | <ul style="list-style-type: none"><li>• Signed Subscription Document with Physical Street Address of Investor<br/>Submitted not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>   |
| <b>PAYMENT</b>       | <ul style="list-style-type: none"><li>• Payment by Wire<br/>Received from bank account of Investor not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>  |
| <b>IDENTITY</b>      | <ul style="list-style-type: none"><li>• Copy of Driver's License or other Official Government-Issued Identification<br/>Must show photo and street address. Any national or state ID card or voter's registration is acceptable if photo and street address are shown. Passport or US Permanent Resident Card (Green Card) or birth certificate are accepted alternate IDs.<br/><br/>If the street address on the ID is incorrect: copy of an electric or gas bill verifying service street address is also required. Waiver of ID requirements above possible only if regulated bank or brokerage provides a satisfactory AML Certification.</li></ul> |
| <b>US TIN INFO</b>   | <ul style="list-style-type: none"><li>• For each US Investor, a complete, signed Form W-9<br/>For each non-US Investor, a complete, signed Form W-8</li></ul>   |
| <b>DATE OF BIRTH</b> | <ul style="list-style-type: none"><li>• Date of Birth required for each Individual<br/>Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>  |
| <b>CITIZENSHIP</b>   | <ul style="list-style-type: none"><li>• Citizenship required for each Individual<br/>Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>  |

## FOR INVESTORS AS TRUSTS

- |                       |  |
|-----------------------|--|
| <b>FUND DOCUMENT</b>  | <ul style="list-style-type: none"><li>• Signed Subscription Document with Physical Street Address of Investor<br/>Submitted not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>  |
| <b>PAYMENT</b>        | <ul style="list-style-type: none"><li>• Payment by Wire<br/>Received from bank account of Investor not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>   |
| <b>IDENTITY</b>       | <ul style="list-style-type: none"><li>• Copy of the complete Trust Document<br/>We can alternatively accept copies of pages from the Trust with articles establishing Trust (showing name of the Trust) naming Trustees, and showing Trustee signatures. We can alternatively accept a Trust Certificate.<br/><br/>• Identification of Trustee(s)<br/>Copy of Driver's License or other Official Government-Issued Identification. Must show photo and street address. Any national or state ID card or voter's registration is acceptable if photo and street address are shown. Passport or US Permanent Resident Card (Green Card) or birth certificate are accepted alternate IDs.<br/>If the street address on the ID is incorrect: copy of an electric or gas bill verifying service street address is required.<br/>If Trustee is an entity, we need a copy of:<br/>For LPs Certificate of official registration of LP and/or copy of signed Partnership Agreement naming General Partner<br/>For LLC Certificate of official registration of LLC and copy of signed Operating Agreement naming Managing Member<br/>For INC Certificate of official registration of Corporation and copy of Articles of Incorporation</li><li>• Identification of Beneficiary(s) of the trust<br/>Copy of Driver's License or other Official Government-Issued Identification. Must show photo and street address. Any national or state ID card or voter's registration is acceptable if photo and street address are shown. Passport or birth certificate are accepted alternate IDs.<br/>If the street address on the ID is incorrect: copy of an electric or gas bill verifying service street address is required.<br/>If Beneficiary is an entity, we need a copy of:<br/>For LPs Certificate of official registration of LP and/or copy of signed Partnership Agreement naming General Partner<br/>For LLC Certificate of official registration of LLC and copy of signed Operating Agreement naming Managing Member<br/>For INC Certificate of official registration of Corporation and copy of Articles of Incorporation<br/>For Trust Copy of the complete Trust Document or alternatively copies of pages with articles establishing Trust (showing name of the Trust) naming Trustees, and showing Trustee signatures. We can also accept a Trust Certificate.<br/><br/>Also a list of names of persons or entities owning over 25% of the Trust.<br/>Waiver of ID requirements above possible only if regulated bank or brokerage provides a satisfactory AML Certification.</li></ul> |
| <b>US TIN INFO</b>    | <ul style="list-style-type: none"><li>• For US entities, a complete, signed Form W-9.<br/>For non-US entities, a complete, signed Form W-8</li></ul>   |
| <b>FORMATION DATE</b> | <ul style="list-style-type: none"><li>• Date of Formation of the Trust<br/>Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>   |
| <b>CITIZENSHIP</b>    | <ul style="list-style-type: none"><li>• Citizenship of the Trustees and Beneficiary(s)<br/>Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>   |

# Investor ID Requirements

Page 2 of 3



## FOR INVESTORS AS IRAS

FUND DOCUMENT	<ul style="list-style-type: none"><li>Signed Subscription Document with Physical Street Address of IRA Beneficial Owner Submitted not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
PAYMENT	<ul style="list-style-type: none"><li>Payment by Wire Received from bank account of IRA Custodian not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
IDENTITY	<ul style="list-style-type: none"><li>Identification of IRA Beneficial Owner Copy of Driver's License or other Official Government-Issued Identification. Must show photo and street address. Any national or state ID card or voter's registration is acceptable if photo and street address are shown. Passport or birth certificate are accepted alternate IDs. If the street address on the ID is incorrect: copy of an electric or gas bill verifying service street address is required. Waiver of ID requirements above possible only if regulated bank or brokerage provides a satisfactory AML Certification.</li><li>Information regarding IRA Custodian Name of IRA Custodian and evidence of Custodian consent with duplicate statements delivery instructions for Investor Statements and Subscription / Redemption Confirmations. Also Custodian's Authorized Signatory list.</li></ul>
US TIN INFO	<ul style="list-style-type: none"><li>For IRA Beneficial Owner, a complete, signed Form W-9 with IRA Beneficial Owner SSN We also require a signed Form W-9 for the IRA custodian with IRA Custodian EIN</li></ul>
DATE OF BIRTH	<ul style="list-style-type: none"><li>Date of Birth of the IRA Beneficial Owner Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>
CITIZENSHIP	<ul style="list-style-type: none"><li>Citizenship of the IRA Beneficial Owner Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>

## FOR INVESTORS AS LP, LLC, or INC.

FUND DOCUMENT	<ul style="list-style-type: none"><li>Signed Subscription Document with Street Address of Investor Submitted not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
PAYMENT	<ul style="list-style-type: none"><li>Payment by Wire Received from bank account of Investor not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
IDENTITY	<ul style="list-style-type: none"><li>Identification of Entity We need a copy of: For LPs Certificate of official registration of LP and/or copy of signed Partnership Agreement naming General Partner For LLC Certificate of official registration of LLC and copy of signed Operating Agreement naming Managing Member For INC Certificate of official registration of Corporation and copy of Articles of Incorporation Also a list of names of persons or entities owning over 25% of the Entity. Waiver of ID requirements above possible only if regulated bank or brokerage provides a satisfactory AML Certification.</li></ul>
US TIN INFO	<ul style="list-style-type: none"><li>List of Authorized Signers with sample signatures We will waive the signatory requirement if the signers are listed within the subscription document.</li></ul>
FORMATION DATE	<ul style="list-style-type: none"><li>For US entities, a complete, signed Form W-9 For non-US entities, a complete, signed Form W-8</li><li>Date of Formation of the Entity Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>
CITIZENSHIP	<ul style="list-style-type: none"><li>City, State (Province) and Country of Formation of the Entity Accepted when provided within signed subscription document or by separate email/fax/other written update.</li></ul>

# Investor ID Requirements

Page 3 of 3



## FOR INVESTOR WHEN CAYMAN ISLANDS COMPANY (LTD, SPC, SP, LP)

FUND DOCUMENT	<ul style="list-style-type: none"><li>Signed Subscription Document with Street Address of Investor Submitted not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
PAYMENT	<ul style="list-style-type: none"><li>Payment by Wire Received from bank account of Investor not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
IDENTITY	<ul style="list-style-type: none"><li>Identification of Entity We need a copy of Certificate of Registration of the LTD, SPC, or LP with the Cayman Registry of Companies in current good standing. Also required is a copy of the Articles and Memorandum of the Entity. Also a list of names of persons or entities owning over 25% of the Entity. Waiver of ID requirements above possible only if regulated bank or brokerage provides a satisfactory AML Certification.</li></ul>
US TIN INFO	<ul style="list-style-type: none"><li>List of Authorized Signers with sample signatures We will waive the signatory requirement if the signers are listed within the subscription document.</li></ul>
DATE OF BIRTH	<ul style="list-style-type: none"><li>For US entities, a complete, signed Form W-9 For non-US entities, a complete, signed Form W-8</li></ul>
CITIZENSHIP	<ul style="list-style-type: none"><li>Date of Formation of the Entity Accepted when provided within signed subscription document or by separate email/fax/other written update.</li><li>City, and Country of Formation of the Entity Accepted when provided within subscription document or by separate email/fax/other written update.</li></ul>

## FOR INVESTOR WHEN CUSTODIAN

FUND DOCUMENT	<ul style="list-style-type: none"><li>Signed Subscription Document Submitted not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
PAYMENT	<ul style="list-style-type: none"><li>Payment by Wire From bank account of Custodian or Investor not later than effective date of transaction, or earlier if Fund Documents require.</li></ul>
IDENTITY	<ul style="list-style-type: none"><li>Identification of Beneficial Owner Copy of Driver's License or other Official Government-Issued Identification. Must show photo and street address. Any national or state ID card or voter's registration is acceptable if photo and street address are shown. Passport or US Permanent Resident Card (Green Card) or birth certificate are accepted alternate IDs. If the street address on the ID is incorrect: copy of an electric or gas bill verifying service street address is required. Also a list of names of persons or entities owning over 25% of the Company. Waiver of ID requirements above possible only if regulated bank or brokerage provides a satisfactory AML Certification.</li></ul>
US TIN INFO	<ul style="list-style-type: none"><li>Information regarding Custodian Name of Custodian and evidence of Custodian consent with duplicate statements delivery instructions for Investor Statements and Subscription / Redemption Confirmations. Also Custodian's Authorized Signatory list.</li></ul>
CITIZENSHIP	<ul style="list-style-type: none"><li>For all US entities, a complete, signed Form W-9 (both Beneficial Owner and Custodian). For all non-US entities, a complete, signed Form W-8 (both Beneficial Owner and Custodian).</li><li>Country of Citizenship of the Beneficial Owner is required (if an Individual) Accepted when provided within subscription document or by separate email/fax/other written update.</li><li>State/Country of Formation of the Beneficial Owner is required (if an Entity) Accepted when provided within subscription document or by separate email/fax/other written update.</li></ul>

## **Supplement to Private Placement Memorandum**

**August 9, 2019**

### **Portfolio Interest – Windgap Medical, Inc.**

THIS SUPPLEMENT (THE “SUPPLEMENT”) HAS BEEN PREPARED IN CONJUNCTION WITH THE PRIVATE PLACEMENT MEMORANDUM, LIMITED LIABILITY COMPANY AGREEMENT, AND SUBSCRIPTION AGREEMENT RELATED TO CLASS A OF SKK VENTURES QP, LLC (THE “OFFERING DOCUMENTS”). THIS DOCUMENT SHOULD BE REVIEWED SIMULTANEOUSLY WITH THE OFFERING DOCUMENTS, AND THE OFFERING DOCUMENTS ARE INCORPORATED INTO THIS SUPPLEMENT BY REFERENCE. IF YOU HAVE NOT RECEIVED COPIES OF THE OFFERING DOCUMENTS, PLEASE CONTACT SHEPHERD KAPLAN KROCHUK INVESTOR RELATIONS AT 617-896-1600.

SKK Ventures QP, LLC Class A / Series WG4 (the “Fund”) intends to invest in Series B Preferred Stock of Windgap Medical, Inc (the “Company”). This Supplement is intended to supplement the information provided in the Fund’s Private Placement Memorandum by providing you with summary information about this proposed investment by the Fund. Investors should review all documents carefully before considering any investment in the Fund. Capitalized terms not otherwise defined herein will have the meanings ascribed to them in the Private Placement Memorandum.

This Supplement and the Investment Manager’s evaluation of the Company and the investment opportunity rely heavily on information provided by the Company. The Investment Manager has not independently verified all of the statements made in this document, and other documents related to the Company that have been provided to you in connection with your consideration of an investment in the Fund.

### **The Company**

The Company has developed a novel drug delivery platform that automates the rehydration and administration of powdered or lyophilized drugs. Windgap’s autoinjector, Andi™, addresses the issues that have long affected current injection technologies, namely:

- Thermal stability – Epinephrine, glucagon and other biologics are highly temperature sensitive in liquid form and rapidly lose potency at elevated temperatures, when in solution.
- Portability – Large form factors and the need for a cool, stable environment limit patients’ ability to take their potentially life-saving medications with them, limiting compliance and increasing risk.
- User error – Non-intuitive form factors (epinephrine) and multi-step operations (glucagon), combined with highly stressful circumstances lead to improper use, patient injury, suboptimal efficacy and low patient compliance.

The Company has contracted with supply chain partners for manufacturing and drug-fill and in conjunction with those partners has manufactured and tested fully functional and filled production devices incorporating Windgap's patent-pending reconstitution technology. Windgap has also received and acted upon pre-IND feedback from the FDA to increase the likelihood of a timely NDA 505(b)(2) filing and clearance for the epinephrine product.

The Company has recently entered a licensing agreement with a global pharmaceutical company in the allergy space, ALK. The agreement includes an initial cash payment, which the Company has received, milestone payments, and a tiered royalty structure. ALK announced the collaboration on approximately August 7, 2019.

Windgap Medical, Inc. was formed under Delaware law in 2011 and is located in Watertown, Massachusetts. The co-founders, Brent Buchine (CTO) and Chris Stepanian (CEO), are seasoned entrepreneurs and they are supported by a very experienced Board of Directors led by Mel Engle (BoD Chair & Investor) the former EpiPen™ CEO at Dey Pharma (the company that formerly marketed EpiPen™ before it was sold to Meridien / Mylan).

### **The Product – Andi™ & Market Opportunity**

Windgap's solution is to store a stable dry powdered drug in a miniature injector, which is then rapidly rehydrated and injected in two steps by the user.

1. A simple twist of the cap automatically rehydrates the dried medication in under two seconds with no shaking or swirling required by the user.
2. A nose-fired trigger administers the needle and delivers the rehydrated dose.

The first market opportunity that Windgap is addressing is epinephrine for anaphylactic shock from severe food, sting, and drug allergies. Windgap is also developing an emergency treatment for opioid overdose, rescue glucagon for hypoglycemic shock, and Benzodiazepines for treatment of chemical weapon exposure.

#### *Epinephrine Opportunity*

Windgap's epinephrine-filled autoinjector, Andi™, offers increased shelf life over the EpiPen™ and other autoinjectors, reducing the number of prescription refills by at least 50%, and lowering out-of-pocket expense to the payer and patient. The device's compact design (40% smaller than EpiPen™), combined with its stable drug form, enables increased patient compliance as the device can be stored in a car, a pocket or other non-temperature controlled environments with no deleterious effects on potency.

### **Competition**

The epinephrine market is dominated by Mylan's EpiPen auto-injector. The Adrenaclick, marketed by Impax and sold by CVS, has failed to make any significant impact in the market despite its significantly lower price. In August of 2018, the FDA approved Teva Pharmaceutical's generic auto-injector for epinephrine.

### **Series B Preferred Stock and Company Financing History**

The Fund will be investing up to \$20 million USD into Series B Preferred Stock of the Company (the “Stock”). The Stock is priced to imply a \$60 million pre-money valuation of the Company. The Stock carries a number of rights and benefits, including, among other things: liquidation preference to prior preferred equity series; the right to elect one board member, which has been filled by Reading Wilson, an affiliate of the Funds Manager; customary protective provisions to protect the rights of holders of the Stock from certain amendments and dilution; and a weighted average anti-dilution mechanism.

Since its founding in 2011 the Company has closed approximately \$15.7 million in total capital (\$6.5 million in equity, \$8.2 million in convertible debt, and a \$1 million loan award). Prior to the series of the Fund described in this Supplement, the Fund has invested approximately \$1.6 million in Series A shares, and \$3.1 million in the convertible notes of the Company.

Convertible notes issued during 2016, 2017 and 2018 have converted to Stock as part of the initial closing of the Stock. The conversion of those notes provides earlier investors, including the Fund, with shares of the Stock in exchange for outstanding debt at a price equal to or less than the price per share at which the same Stock is currently being offered. Shepherd Kaplan Krochuk, LLC, the Fund, and the Manager have taken into account the capitalization of the Company, including convertible securities, in negotiating the share price of the Stock for the Fund’s further investment.

### **Risk Factors Specific to the Company**

#### **1. Development Stage Company**

Investment in development stage companies such as Windgap Medical, Inc. involve a high degree of risk. Development stage companies have little or no operating history and will need substantial additional investments of capital to support expansion and achieve their business objectives. The Company does not target its first commercial product launch until 2021. Prior to that time, it will need to develop its manufacturing capability and successfully test its products to achieve FDA approval. Delays and complications could arise as the Company develops its manufacturing process and tests its products. The Company will need to seek infusions of cash through research collaborations, existing and future licensing arrangements and capital raising in order to support its activities.

The Company’s FY 2017 Financial Statements state that at December 31, 2017 the Company had current assets of \$1,777,354 and a net loss of \$5,528,146 during the year. The Company has not yet completed an audit for the fiscal year ended December 31, 2018; however, the draft unaudited financial statements prepared by the Company state current assets of \$47,517 and a net loss of \$4,931,624 for that period. The Company’s Board of Directors has determined to delay the audit of the Company’s Financial Statements for FY 2018 until the third quarter of 2019 to reduce the cost to the Company of the audit.

Although the Company believes that a successful Series B raise would provide sufficient capital to commercialize its epinephrine product, there is no assurance that the additional capital needed

by the Company will be available. As a result the Company can experience failure or substantial declines in value and an investor may suffer a loss of his/her entire investment.

As a development stage Company, the Company will be competing against numerous, large, established companies that have substantially greater financial, technical, manufacturing, marketing, distribution and other resources, and the Company will be at a significant competitive disadvantage. The Company's patents and maintenance of trade secrets may not protect the proprietorship of the Company's products. The Company's senior management is critical to the Company's success and there is no assurance that they will stay.

## 2. Intellectual Property Risk

The Company's success is heavily dependent on its ownership of the intellectual property that it has developed. Although the Company is active in protecting its intellectual property, there is a risk that its ownership could be challenged. For example, a competitor could infringe on the intellectual property rights of the Company or claim that the Company's patent protections are invalid, which could result in considerable costs for the Company and could affect the value of its intellectual property portfolio. A competitor could also claim that the Company's products infringe on the intellectual property owned by others, which could cost the Company significant funds to defend, could delay regulatory approval, and could ultimately diminish the Company's freedom to operate. Further, the Company's intellectual property portfolio is limited in scope and duration by operation of law in the U.S. and in other jurisdictions, which may limit the Company's exclusivity in certain countries and after certain periods of time.

## 3. Regulatory Status and Risks

Windgap's combination of a proven drug and existing route of administration could substantially reduce time to market under a streamlined Regulatory 505(b)(2) Process:

- Epinephrine product will be filed as a 505(b)(2) against a reference listed drug (RLD).
- Targeting a dose profile that is already approved by the FDA helps to simplify the regulatory process. The autoinjector is designed around the same needle length and gauge, resulting in no change to the route of administration.
- The epinephrine pre-IND meeting with the FDA indicates the potential for a bio waiver and rapid path with no phased clinical studies required; and Windgap may be able to demonstrate equivalence and device viability through in vitro testing and human factors studies.

Nevertheless, FDA approval is required for the commercialization of Windgap's products, and such approval can be delayed if the Company's progress on manufacturing and testing its products does not proceed in accordance with the Company's plans, or if the FDA imposes additional requirements not currently anticipated. Such problems can increase the time and cost of product development, limit the revenue and profitability potential of the Company and imperil the Company's prospects if its products are not approved.

#### 4. Valuation Risks.

While publicly traded companies are valued through transparent, market-driven stock prices, the valuation of a private development stage company is far more subjective and an investor risks overpaying for an investment. The price paid for an investment may have a material impact on the eventual return, if any at all. As stated above, the Stock has been valued based on a pre-money valuation of the Company of \$60 million. If Windgap fails to develop its products or receive non-dilutive funding for research or licensing in accordance with its goals, additional funding may be required at a lower valuation than was paid by an earlier investor. Refer to Stock Purchase Agreement, and related documents, for the exact terms, and to the notes to the Company's FY2017 Financial Statements for a description of the terms of the Company's outstanding debt and equity.

#### 5. Certain Conflicts of Interest

The Fund has used its rights as a holder of Series A Preferred Stock of the Company to appoint Timothy Krochuk, a Managing Member of SKK, as a director of the Company. The Fund has used its rights as a holder of Series B Preferred Stock to appoint Reading Wilson, a member of SKK Group, LLC, as a director of the Company. In each of their capacities as a director, these appointees would be obligated to act in the best interests of the Company and its shareholders, which could potentially conflict those of the Fund and its investors. Appointees are also expected to receive personal compensation in the form of cash and/or stock options from the Company for their service to the Company. In addition, SKK and its affiliates may come into possession of information about the Company or its services that differs from information to which you will have access by virtue of the directorship or otherwise. We do not undertake to provide such information to you, now or in the future. We may also have different degrees of contact with the Company than you may in the future.

The Company and Provident Healthcare Partners, LLC ("Provident") have negotiated an agreement (the "Transaction Agreement") that provides that Provident will have the exclusive right to consult with the Company regarding all future private equity financings. Mr. Krochuk was involved in that negotiation as a director of the Company. SKK has several business relationships with Provident, for example: an affiliate of Provident has provided a loan to an affiliate of SKK in connection with a stock warehousing arrangement related to the Fund, which was negotiated simultaneously with the Transaction Agreement; SKK has sponsored a fund that owns a substantial minority stake in Provident; SKK has negotiated solicitation and brokerage agreements with Provident; and SKK is in the early stages of planning a private fund that would involve collaboration with Provident. Due to these relationships, SKK, Mr. Krochuk, other funds sponsored by SKK, and other fund investors may have interests in considering the Transaction Agreement, or in future transactions with the Company, that conflict with the best interests of the Fund. For example it is possible that payments from the Company to Provident could indirectly benefit SKK and investors in its other funds, but be adverse to the Fund and the Company. SKK believes that the governance structure of both the Company and SKK, help mitigate the effects of conflicts of interest on the Fund.

## **6. Other Risks**

Uncertain market pricing for epinephrine autoinjectors and larger, better financed competition could hurt Windgap's prospects. When Andi™ reaches commercialization, it is uncertain what prevailing market prices will be for epinephrine autoinjectors. It is possible that pricing will be lower than prices that prevail in the market today. Further, existing competitors may use their size and financial strength to lessen Andi's appeal to prospective customers by lowering the price on their own products to protect their existing market share.

Further, in the time it will take for Windgap's autoinjectors to reach commercialization, many market variables can change that could harm their financial prospects – regulations, new competing technology / products, market pricing, patient need, or improved drugs.

## **7. Additional Available Documentation**

In addition to the documents provided to you with these Offering Documents, certain additional documents related to Windgap Medical, Inc. are available upon your request and after executing a Non-Disclosure Agreement to protect proprietary information of the fund and the Company. These documents include:

- 2016 Audited Financial Statements of Windgap Medical, Inc.
- 2017 Audited Financial Statements of Windgap Medical, Inc.
- October 2018 unaudited financial Statements of Windgap Medical, Inc.
- Financial forecasts of Windgap Medical, Inc.
- Capitalization Table of Windgap Medical, Inc.
- Key Series B documents, including: Certificate of Incorporation, Right of First Refusal and Co-Sale Agreement, Voting Agreement, Stock Purchase Agreement, and Investors Rights Agreement.

To assist with your consideration of an investment of the Fund, we have made these documents available through a secure data room. Please contact SKK Investor Relations if you would like to arrange access to our data room:

**Email:** [investorrelations@skk-llc.com](mailto:investorrelations@skk-llc.com)

**Phone:** 617-896-1600

**Important Notice to Investors**  
**SKK Ventures QP, LLC Series WG4 (the “Fund”)**

As more fully described in the offering documents of the Fund, the strategy of Series WG4 is to invest in the Series B Preferred Shares of Windgap Medical, Inc. (“Windgap”). As of August 1, 2019 the manager of the Fund, SKK Ventures QP Manager, LLC (the “Manager”), which is an affiliate of the Fund’s adviser, Shepherd Kaplan Krochuk, LLC (“SKK”), has entered a transaction with Windgap to purchase approximately \$2.4 million of Series B Preferred Shares of Windgap (the “Stock”) under a “warehousing” arrangement on behalf of the Fund. Under this arrangement, the Fund will be purchasing shares from the Manager that the Manager purchased earlier in order to meet strategic needs of the Company and the Fund.

**The Manager’s Acquisition of the Stock**

SKK and the Manager determined that it was in the best interests of the Fund and the Company to purchase shares of the Company on or about August 1, 2019, but the Fund did not have sufficient investable capital at that time. To meet the investment timing goals of the Fund, the Manager acquired the Stock with capital borrowed from Provident Healthcare Capital, LLC (“PHC”). The Manager has pledged the Stock as collateral for that loan. Under the Stock Pledge Agreement between PHC and the Manager, the security interest in the Stock may be released by full or partial payment of the loan. The loan, the Stock, and the security interest were all in the name of the Manager, and the Fund did not take on any debt or other leverage as part of the transaction.

**The Anticipated Transfer of the Stock to the Fund**

SKK anticipates one or more closings involving the Fund and the Manager in which a) capital from new subscriptions in the Fund will be used by the Fund to purchase some or all of the Stock from the Manager; b) the Manager will use those proceeds to partially or fully repay the loan from PHC; c) PCH will release the security interest on the Stock to be transferred; d) the Manager will transfer all or a portion of the Stock to the Fund on the same terms and at the same price as though the Fund had bought the Stock from Windgap directly; and e) Windgap will be instructed to update its records and complete such documentation as required to provide the Fund the full interest and rights in the Stock as though the Fund had invested directly with Windgap. The Manager and/or SKK will bear all the expenses related to the loan from PHC, including the payment of any accrued interest. The Fund will still bear its ordinary fees payable to the Manager and/or SKK.

**Certain Conflicts of Interest related to this Notice**

SKK and the Manager had certain conflicts in arranging the transactions described in this notice. As described in the Private Placement Memorandum Supplement for the Fund, Timothy Krochuk, a Managing Member of SKK, has been appointed by the Fund as a director of Windgap. As a director, Mr. Krochuk has duties of care and loyalty to Windgap, which could potential conflict with his duties to the Fund. In addition, as a director, Mr. Krochuk has been provided stock options in Windgap, which may provide an incentive for him to take actions to

improve the value of his options that could be inconsistent with those of the Fund. Nonetheless, in the context of the transactions described in this notice, SKK believes that Mr. Krochuk's interests in helping further the strategic goals of Windgap are aligned with the interests of the Fund. The Manager and/or SKK have also agreed to bear the borrowing costs of warehousing the Stock in order to further mitigate any perceived conflict of interest.

In addition, as described in the Private Placement Memorandum Supplement for the Fund, PHC is related to Provident Healthcare Partners, LLC, a company with which SKK and another fund sponsored by SKK have additional business relationships and interests.

Acknowledged by the limited partner:

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MASSACHUSETTS  
LIFE SCIENCES CENTER

2014 Accelerator Loan Winner



2016 Diabetes Challenge Winner

T1D Exchange®



windgap  
medical

ANDI™ Autoinjector for  
Anaphylaxis and Beyond



# CAUTIONARY LANGUAGE

We caution that the above statements contain forward-looking statements that reflect our plans, goals, next steps, estimates, assumptions and beliefs as of the date of this communication. Such forward-looking statements can be identified by terms such as "will", "could", "expect", "may", "believe", "continue", "become", "potential", "anticipate", use of the future tense or similar expressions. Actual results could differ materially from those discussed in the forward-looking statements, due to a number of important factors, which include, but are not limited to, the following: changes in the financing, production, partnering or generics marketplace; regulatory changes affecting exclusivity or ability to obtain regulatory approval of our products or similar products; ability of the Company to prosecute, protect or defend its intellectual property portfolio or maintain the Company's freedom to operate against third parties' rights; changes in the pharmaceutical reimbursement landscape; changes in regulation affecting drug pricing; appetite for financing or licensing deals by potential investors or licensees and their willingness to offer and negotiate terms of any potential agreements or withdrawal or termination of any or all offers or discussions; and failure to obtain agreement or approval by our or their management, stockholders or board or directors or other third parties to such deals. We have no assurance that any potential agreements are achievable on terms attractive to Windgap, or at all.

# MISSION & PRODUCT

- Windgap's novel autoinjector enables the transformation of complicated drug delivery problems into patient-convenient solutions
  - It reduces complicated reconstitution steps and improves drug delivery for patient
  - It increases shelf life and thermal stability

**This creates new products for patients and  
expands markets for pharma partners**

# MANAGEMENT TEAM

## **Christopher Stepanian** | Chief Executive Officer

- 30 years of experience in management, finance, and operations;
- Founding Team, Aspen Aerogels (NYSE: ASPN Business strategy, finance, management, and engineering)
- Chief engineer for manufacturing plant
- Successfully raised angel and venture capital
- MIT Sloan Fellow



## **Brent Buchine** | Chief Technology Officer

- 15 years of R&D experience and 14 patents issued
- Founder & President of Custom Nanotech, LLC
- Technology strategy, IP prosecution, and business development
- Contracts, Supply Chain, and IP portfolio management



## **Adam Standley** | Director of Product Development

- Engineer with extensive product design experience
- 15 years of experience developing mechanical systems
- Med device and semiconductors
- Manufacturing scale up



## **Evan Sherr** | VP of Operations

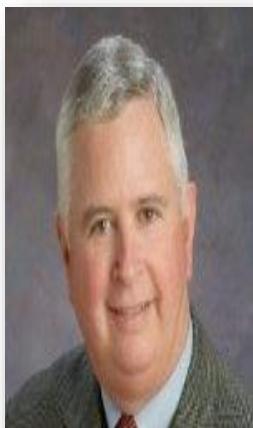
- Operations, development, quality and regulatory experience with drug/device combination products
- 25 years of experience in drug and device products
- Successful 505(b)(2) approval
- Built regulatory/quality organizations



# EXPERIENCED BOARD

**Mel Engle**

Chairman & Investor



**John Conley**

Series Seed & Investor



**Tim Krochuk**

Series A & Investor



**Reading Wilson**

Series B & Investor



**Richard Gabriel**

Outside BOD Member



Former CEO, EpiPen  
Dey LP, Allergan

Co-Founder &  
Finance VP Alnylam

Named Partner,  
SKK

SKK, BoA, First  
Union

COO, GLG  
Pharma

**John Cadigan**  
BOD Observer & Investor



Former GM, Philips HC

**Rob Manning**  
BOD Observer & Investor



BOD Smart Cells &  
Cherrystone Angel Group

**Carla (Haslauer) Reimold**  
BOD Observer



MLSC Observer,  
Boston Children's

# WINGAP IN SUMMARY

- Innovative technology
- Epinephrine partnership
- Platform opportunities
- Low-risk regulatory
- Strong IP
- World-class partners
- Experienced team
- Financial opportunity

# EPIPEN: THE PROBLEM

Large

Expensive

Confusing

Thermally Unstable



# THE SOLUTION

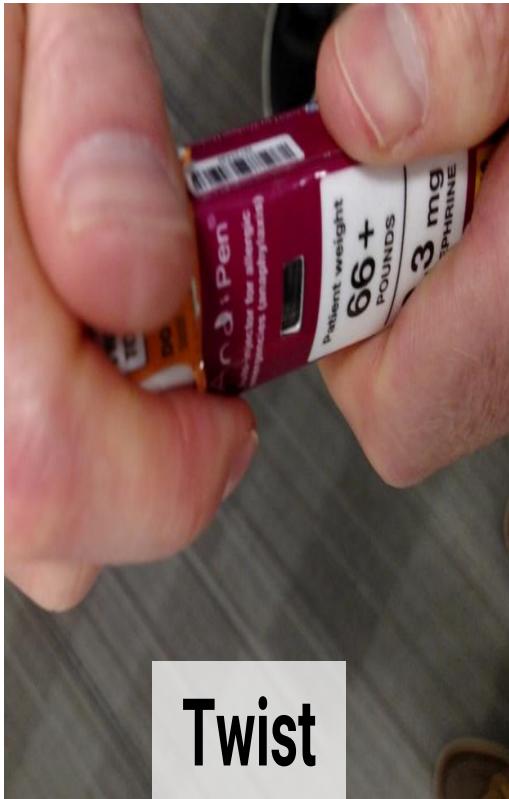


Small  
Lower-cost  
Easy to use  
Thermally stable

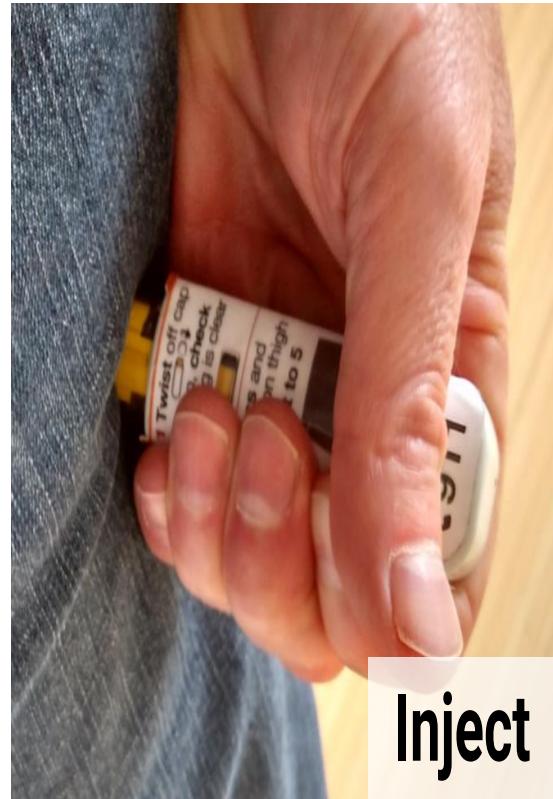
# EASY TO USE



Grab



Twist



Inject

Small for portability

Rehydration upon activation

Intuitive injection

# ANDIPEN® AUTO-REHYDRATION



ANDI can be operated  
upside down, sideways  
or at 45 degrees

The injection can not be  
made until mixing is  
complete  
(safety measure)

# PRODUCT OPPORTUNITIES

## Unstable liquids

Epinephrine  
(Anaphylaxis)



## Awkward rehydration

Glucagon  
(Hypoglycemia)



## Long-acting drugs

GLP-1 (exenatide, liraglutide)  
(Diabetes, weight loss)



## Benzodiazepine (Seizure)



Clotting Factor (VII,VIII)  
(Hemophilia)



Naltrexone  
(Opioid addiction)



## Emergency treatment (Opioid Overdose)



Sumatriptan  
(Migraine)



Resperidone  
(Anti-Psychotic)



## Etanercept (Enbrel) (Rheumatoid Arthritis)



Human Growth Hormone  
(Pituitary Disease)



Sandostatin  
(Antidiarrheal, Acromegaly)



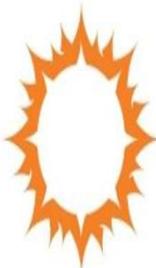
# PRODUCT PIPELINE

- **Epinephrine**
  - \$1,300 billion + ex-US growth
  - Strong partner with international reach
- **Emergency Treatment, Opioid Overdose**
  - \$245 million + growing potential
  - Transition from vials -> delivery devices resulting in 30% YoY unit growth
  - Active term-sheet negotiations with intl. pharma partner
- **Glucagon**
  - \$250 million + growth to \$1 billion w/ autoinjector
  - Strong need for portable, easy-to-use version
- **Benzodiazepines**
  - DoD opportunities
  - Treatment for chemical weapon exposure

# PARTNERSHIP VALIDATION

Epinephrine Autoinjector

Platform



ALLERGY  
PARTNERS

ALK  
ABELLÓ

molex®  
one company, a world of innovation  
Phillips  
Medisize

Partnerships Built on Innovation

Worlds Largest  
Allergy Practice



Series A

"THE" Allergy  
Company

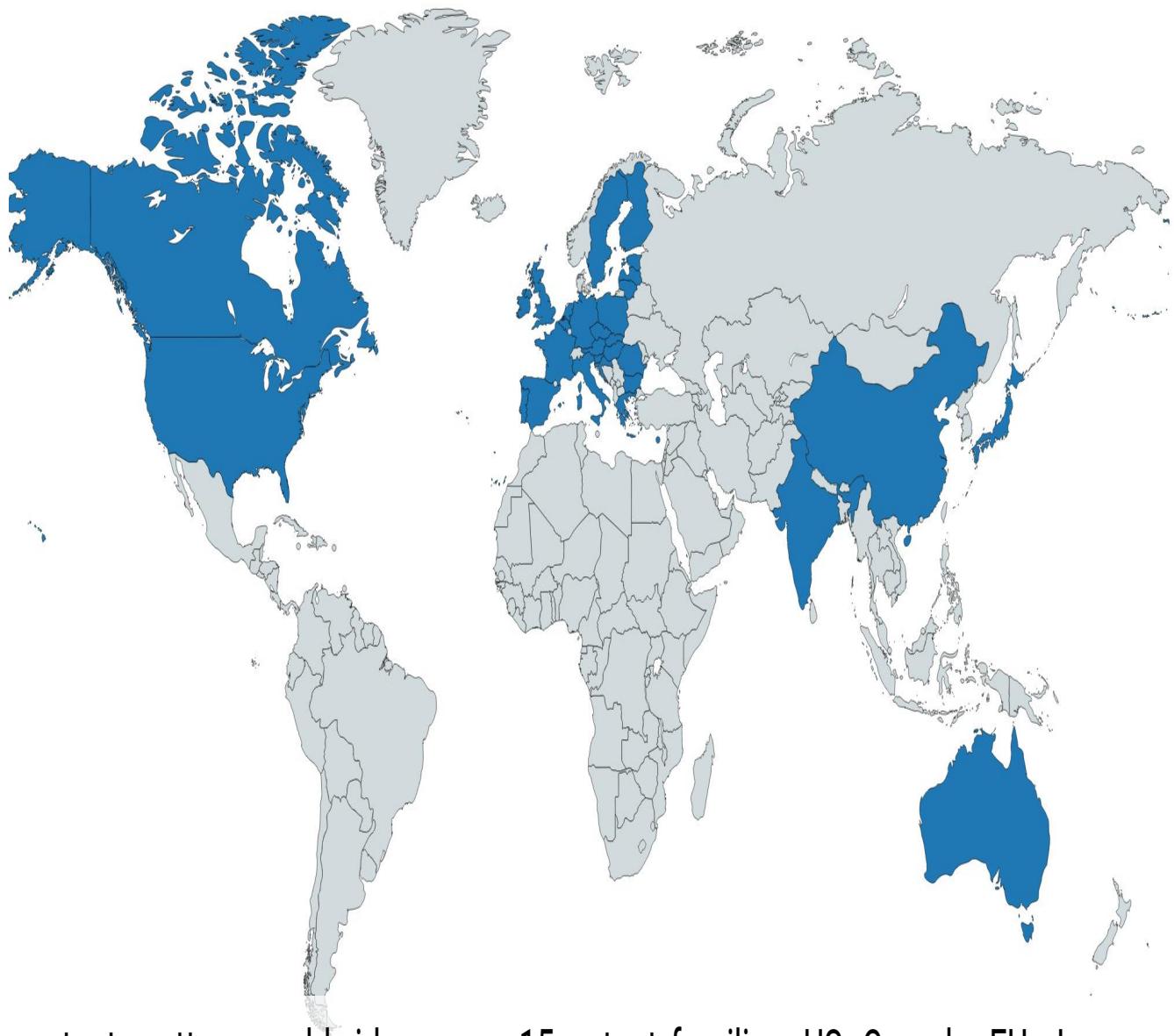


Leading Producer  
in Drug Delivery



Series B

# INTELLECTUAL PROPERTY



- 80+ live patent matters worldwide across 15 patent families: US, Canada, EU, Japan, Australia, India, China
- 13 patents issued (7-US, 5-International, with 11 additional notice of allowances pending issuance)
- Three patentability studies: **patentable**
- Freedom-to-Operate: **unobstructed**

# REGULATORY: 505(b)(2)

Reference drug

YES

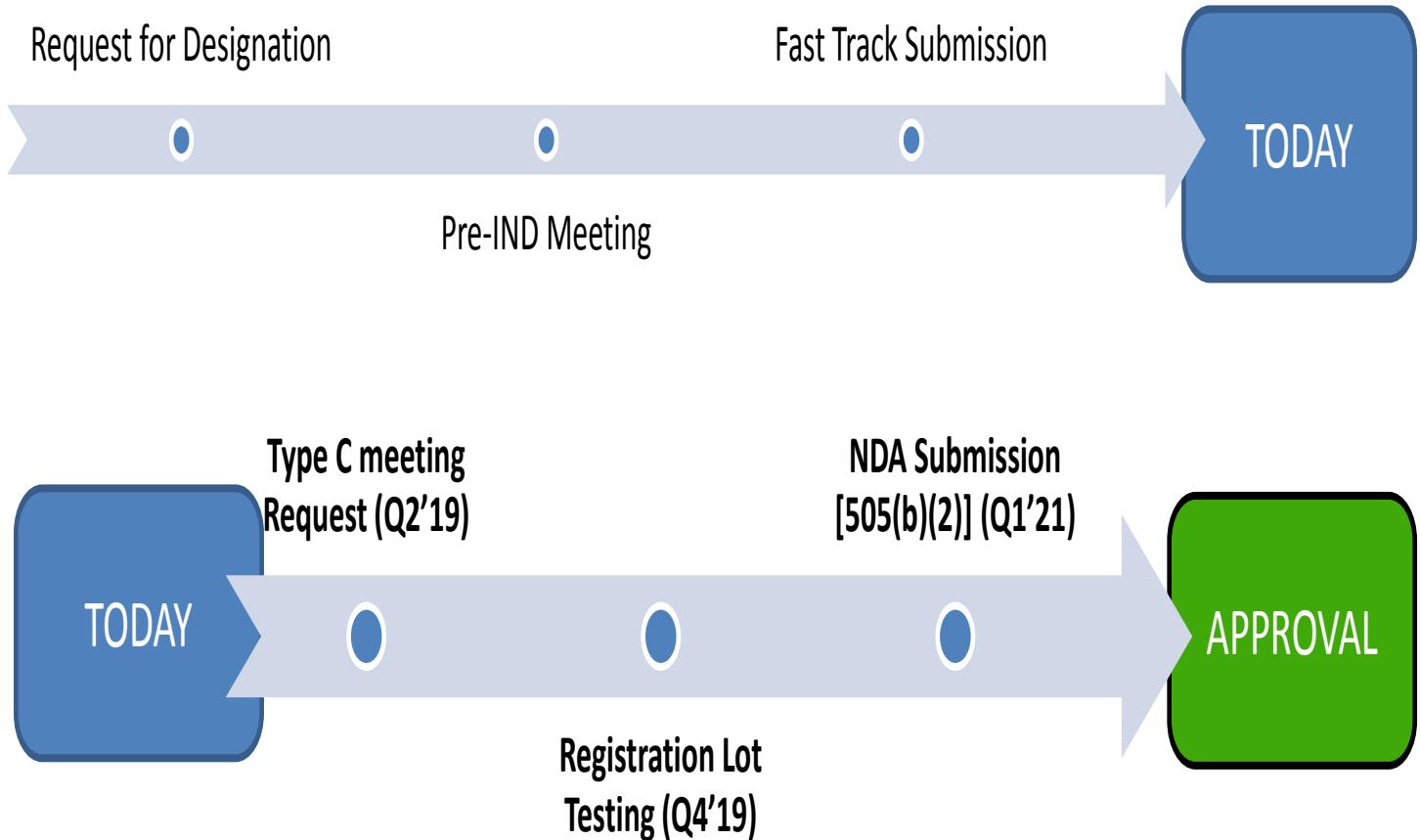
Same route of administration

YES

Human clinical trials

NO

# REGULATORY HISTORY & FUTURE



- Fast track impact: potential 3-6 month savings
- Approval range: Q2'21 – Q4'21
  - Impacted by Fast Track, FDA feedback, and CMC test results

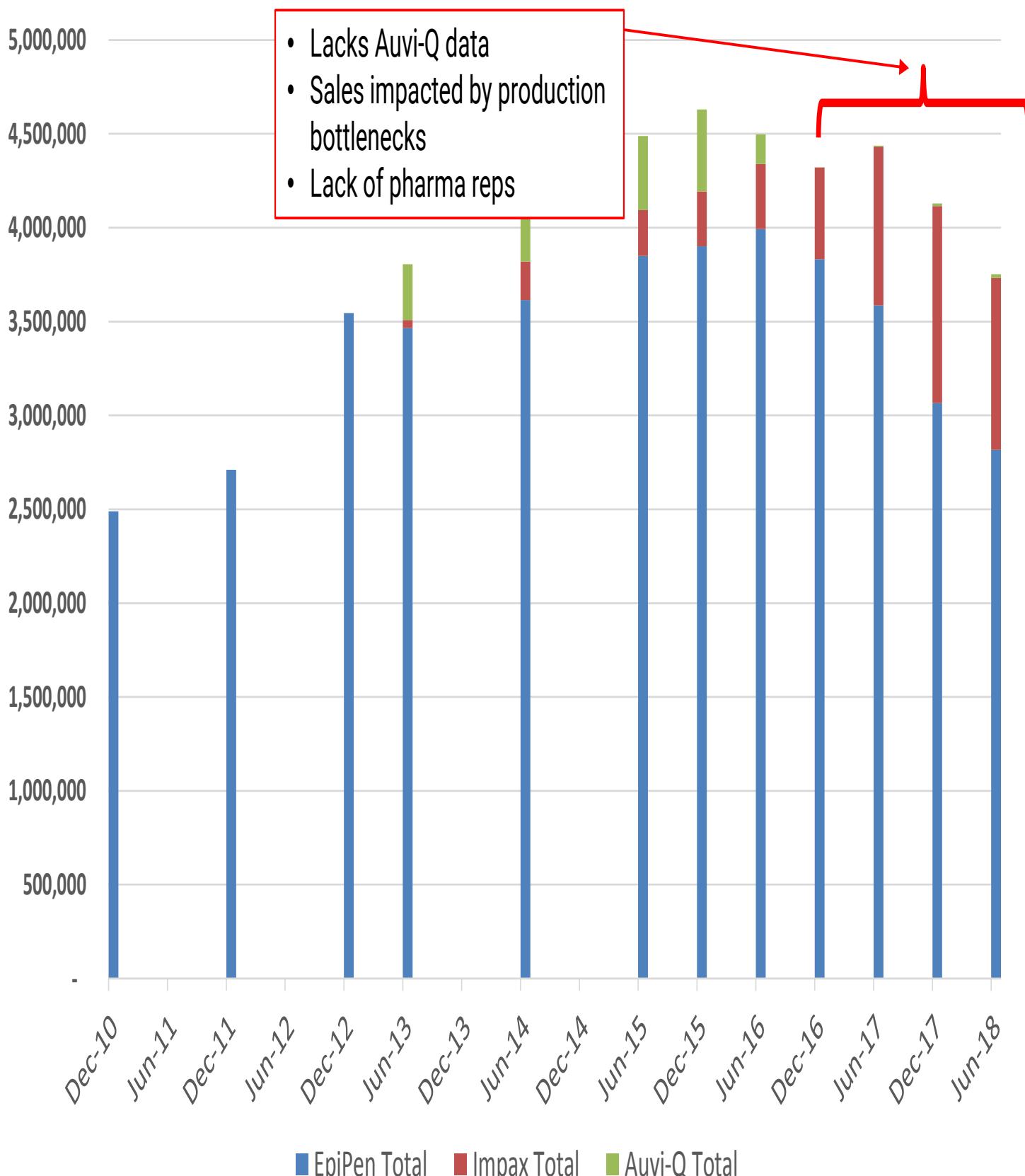
# US POPULATION AT RISK OF ANAPHYLAXIS



\*Mylan investor presentations; Journal papers: Gupta et.al. JAMA (2019), Gupta et.al. Pediatrics (2019)

\*\*IMS Health; Chua and Conti, JAMA Intern Med. (2017)

# EPI AUTOINJECTOR UNITS (US TTM)



# FINANCE (HISTORY)

- Series Seed Preferred (2014)
  - \$2.75 million pre, \$2 million raised
- Series A Preferred (2015)
  - \$20.5 million pre, \$4.5 million raised
  - Catalyzed by ≈\$1 million MLSC loan
- 2016 and 2017 Debt Rounds
  - A total of \$8 million raised

# SERIES B ROUND

- \$30 million raise, \$60 million pre  
– SKK leading - \$20 million appetite  
– Strategic investor (Molex Ventures) onboard  
for \$5 million  
– Initial close completed in early January, full  
completion by late-Q2'19
- ALK announcement pending

# SERIES B: SUMMARY USE OF FUNDS

	V&V	Stability	Regulatory Review	Commissioning / Approval	Totals
	full, 12 Months of Stability*		full, 10 months of review		
Number of Months from Funding Date	0-8	9-22	23-33	34	34
Salaries & Benefits	Maximum Headcount during Period	16	21	22	22
		\$1,200	\$3,600	\$3,000	\$300
R&D					
	Engineering Test Lots, Testing, and Design Lock-Down, and Lab Expense	\$400	\$200	\$100	\$0
	Verification and Validation of Drug and Device Regulatory Package [NDA-505(b)(2)] Development and Submission	\$3,000	\$5,500	\$0	\$0
	NRE Associated with Commercial Mfg. Line (2.5M per annual scale)	\$0	\$1,300	\$2,100	\$100
	CapEx Associated with Commercial Mfg. Line (2.5M per year)	\$0	\$2,300	\$2,800	\$0
	Product #2 Development and Commercialization	\$100	\$5,400	\$6,500	\$0
	Product #3 Development and Commercialization	\$100	\$400	\$1,200	\$0
General OpEx		\$1,200	\$3,200	\$3,700	\$400
Subtotal		<b>\$6,000</b>	<b>\$21,900</b>	<b>\$19,500</b>	<b>\$800</b>
	Less Milestone Payments	(\$2,000)	(\$10,000)	\$0	(\$5,000)
Total		<b>\$4,000</b>	<b>\$11,900</b>	<b>\$19,500</b>	<b>(\$4,200)</b>

Series B initial close: December 2018

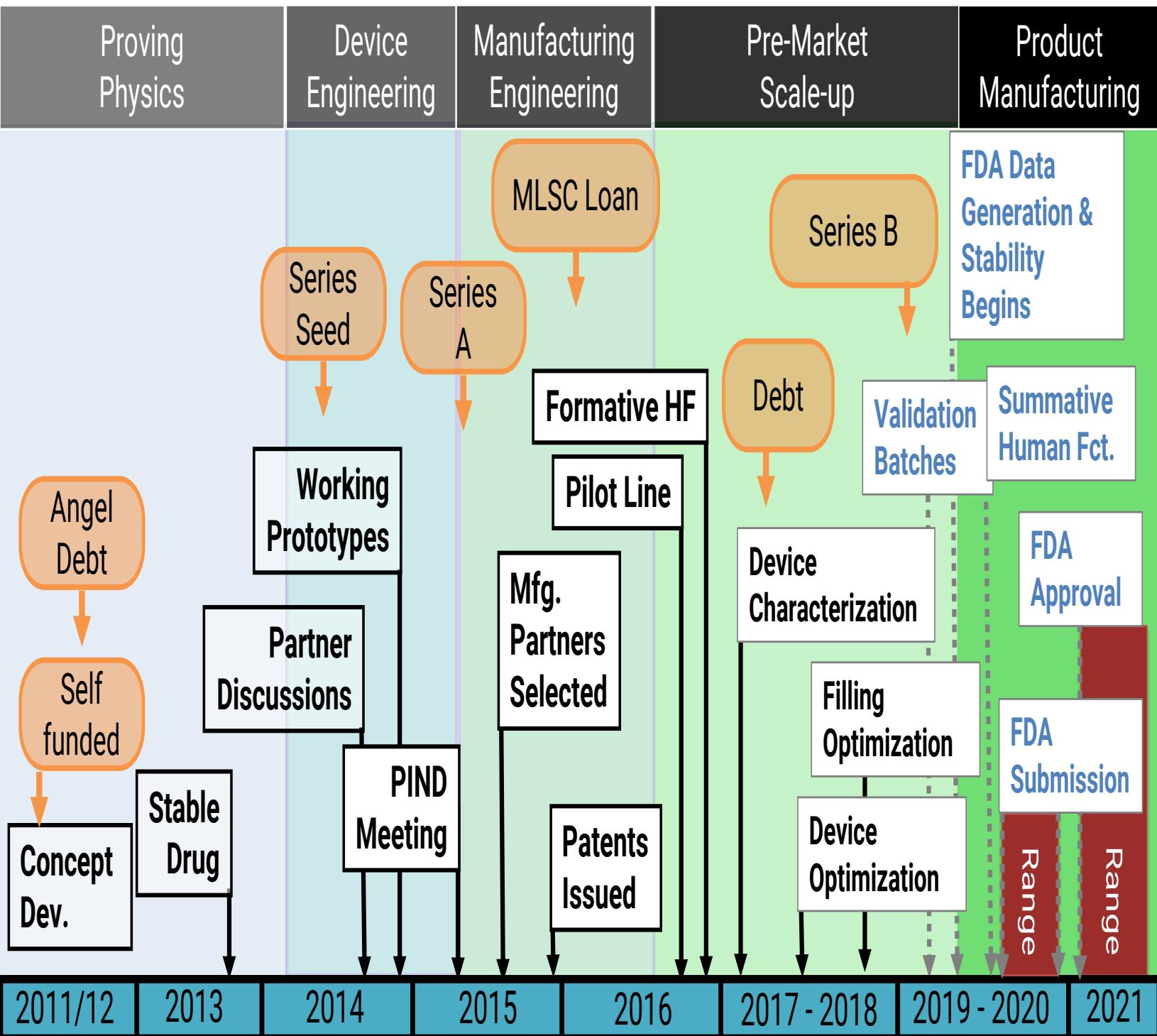
\* Opportunity to decrease TTM with 6 months of submission data vs. waiting for 12 months

# MARKET SHARE ANALYSIS

- 2017: Mylan's end-of-lifecycle EpiPen strategy
  - End advertising and fired pharma reps
  - Chiral purity and longevity = potency
  - **ANDIEpi targeting 60% market share with strong differentiation, compelling shelf life, and chiral purity**
- 2013: Launch of Auvi-Q led to peak market share (sales \$) in 16 months
  - Strong headwinds by Mylan in US resulted in a 13.4% market share
  - Auvi-Q Canada launch resulted in 30% market share without marketing - no headwinds by Mylan
  - ANDIEpi's worst-case 25% capture of existing + new patients = conservative for a highly differentiated product

<https://www.policymed.com/2017/05/sanofi-and-mylan-are-preparing-to-duke-it-out-in-court.html>

# EPI COMMERCIALIZATION TIMELINE



# EPINEPHRINE REVENUE MODEL

# WINGAP IN SUMMARY

- Innovative technology
- Epinephrine partnership
- Platform opportunities
- Low-risk regulatory
- Strong IP
- World-class partners
- Experienced team
- Financial opportunity



windgap  
medical

# END

# REGULATORY ATTORNEY



- 14 years at the FDA
- Assisted in drafting the orange book
- Combination products expert
- 505(b)(2) filing expert
- Experience working on other epinephrine products for anaphylaxis

**David Rosen**

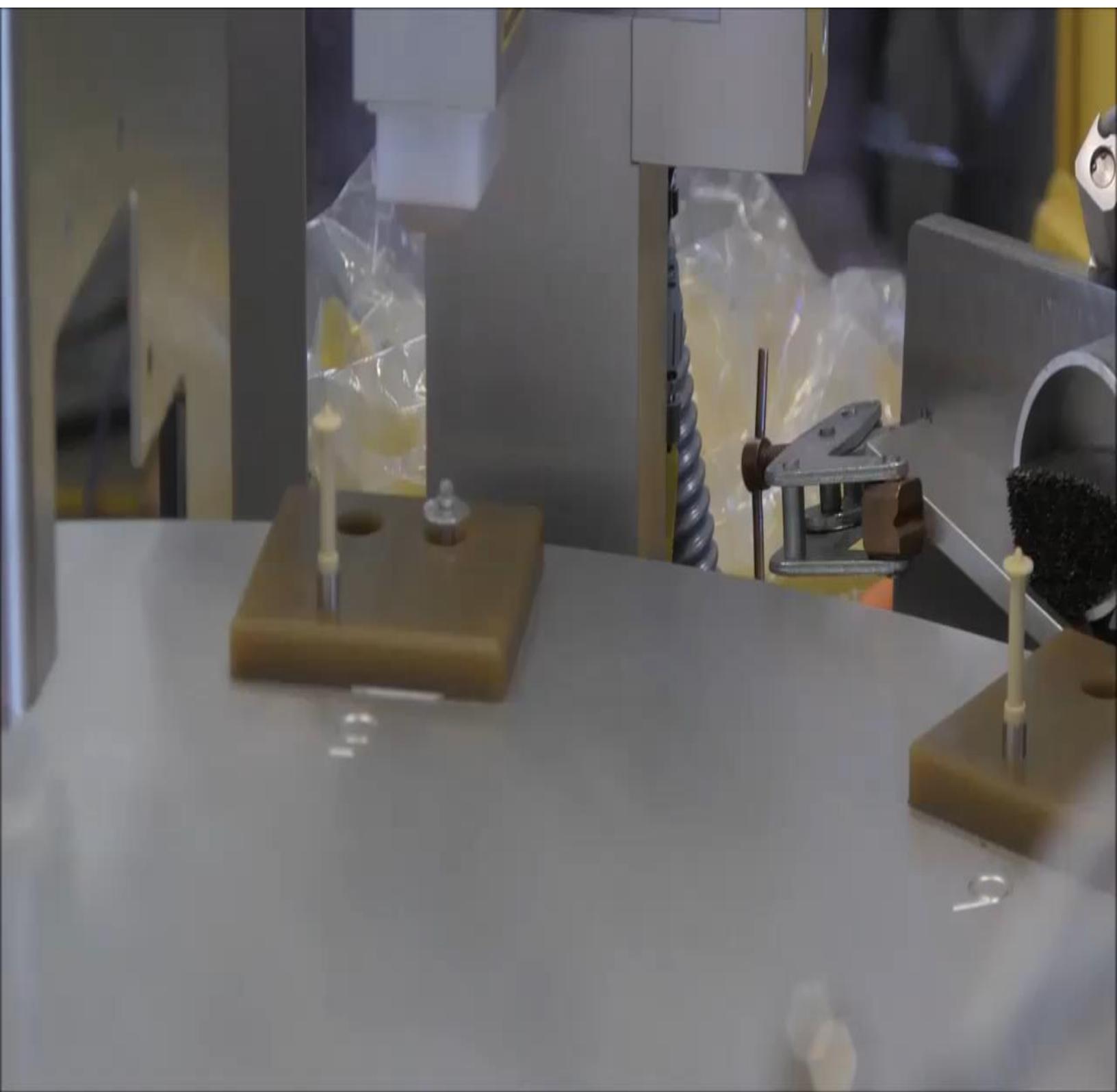
Partner

Foley & Lardner, LLP

# ANDIPEN® ASSEMBLY



# CANNULATION AUTOMATION SYSTEM



# POWDER FILL/FINISH



# DISSOLUTION TEST STATION

Dissolution Test Station  
Test Sample 6  
Adam Standley  
Dir. Prod. Dev.  
MAY 01 2017

# FORMATIVE HUMAN FACTORS SUMMARY

