

# Kirkwood Investment Management L.P.

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This Brochure provides information about the qualifications and business practices of Kirkwood Investment Management L.P. ("Kirkwood"). If you have any questions about the contents of this Brochure, please contact us at (212) 319-4418. 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.

Kirkwood is registered as an investment adviser with the SEC. Registration of an investment adviser does not imply a certain level of skill or training. Additional information about Kirkwood is also available on the SEC's website at [www.adviserinfo.sec.gov](http://www.adviserinfo.sec.gov).

## **Item 2 – Material Changes**

This Brochure, dated June 26, 2018, is Kirkwood’s initial Brochure.

In the future, this Item will discuss only specific material changes that are made to the Brochure and provide a summary of such changes. We will also reference the date of our last annual update of our Brochure.

You will receive a summary of any material changes to this and subsequent Brochures within 120 days of the close of our fiscal year. We may provide other ongoing disclosure information about material changes, as necessary.

We will further provide you with a new Brochure, as needed at any time without charge.

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## **Item 4 – Advisory Business**

### **Advisory Services**

#### **4. A. Advisory Firm Description**

Kirkwood Investment Management L.P. (“Kirkwood”) was formed in 2002 as an investment adviser to a private fund, Kirkwood Capital, LP (the “Fund”). David Rabinowitz is the principal owner of Kirkwood.

#### **4.B Types of Advisory Services**

Kirkwood provides investment advisory and management services on a discretionary basis to the Fund, which is a private pooled investment vehicle organized as a domestic limited partnership.

#### **4.C. Client Investment Objectives/Restrictions**

Investments for the Fund are managed in accordance with the Fund’s specific investment objectives, strategies and restrictions. Investments are not tailored to the individualized needs of any particular investor in the Fund (each, an “Investor”). Investors may not impose restrictions on investing in certain securities or certain types of securities.

#### **4.D. Wrap-Fee Programs**

Kirkwood does not participate in any wrap fee programs.

#### **4.E. Assets Under Management**

As of December 31, 2017, Kirkwood had \$150,304,000 in regulatory assets under management. All assets are managed on a discretionary basis.

## **Item 5 – Fees and Compensation**

### **Advisory Contracts and Fees**

#### **5.A. Adviser Compensation**

Detailed descriptions of fees charged to Investors in the Fund are included in the Fund's offering documents. In addition, Kirkwood and the Fund's general partner have authority to waive or reduce fees charged to certain Investors.

#### **Asset-Based Compensation**

Kirkwood is paid a management fee, payable quarterly in advance, of 1% per year of the value of each Investor's interest in the Fund, calculated as of the first day of the calendar quarter.

#### **Performance-Based Compensation**

The Fund's general partner, Kirkwood Advisors, LLC, is entitled to receive an annual performance-based allocation equal to 20% of the net capital appreciation credited to each Investor in the Fund, subject to a high water mark. The performance allocation, if any, is generally calculated and determined as of December 31st of each year, but may be calculated on other dates, such as upon the termination of the Fund and the final liquidation of its assets. If an Investor withdraws on a date other than December 31st, the performance allocation will be calculated with respect to the actual change in net capital appreciation through and including the date of withdrawal. Any performance-based compensation complies with Rule 205-3 under the Investment Advisers Act of 1940, as amended (the "Advisers Act").

#### **5.B. Direct Billing of Advisory Fees**

Management fees and performance allocations, if any, are deducted directly from the Fund's account by its custodian, in accordance with invoices and instructions prepared by Kirkwood and the Fund's offering documents.

#### **5.C. Other Non-Advisory Fees**

The management fee and the performance allocation are exclusive of brokerage commissions, transaction fees, and other related costs and expenses that are incurred by the Fund and indirectly borne by Investors. The Fund incurs certain charges for services by custodians, brokers, administrators, lawyers, auditors and other third parties such as custodial fees, wire transfer and electronic fund fees, audit and legal fees, and other fees and taxes on brokerage accounts and securities transactions. The Fund's portfolio may include positions in mutual funds or exchange traded funds that also charge management fees. Such

charges, fees, and commissions are exclusive of, and in addition to, Kirkwood's fees. Kirkwood does not receive any portion of these commissions, fees, and costs.

Item 12 below describes the factors that Kirkwood considers in selecting broker-dealers for Fund transactions and determining the reasonableness of their compensation (e.g., commissions).

#### **5.D. Advance Payment of Fees**

Fees include an annual management fee of 1%, which is generally payable quarterly as of the first day of the quarter. Management Fees are charged on a prorated basis with respect to capital contributions accepted on days other than the first business day of a calendar quarter. If any Investor withdraws all or a portion of its capital account from the Fund on any day other than the last day of a calendar quarter, such Investor's capital account will be credited, on the withdrawal date, with the unearned portion of the management fee attributable to the percentage withdrawn as of such date.

#### **5.E. Compensation for Sale of Securities or Other Investment Products**

Neither Kirkwood nor its supervised persons accept compensation for the sale of securities or other investment products, including asset-based sales charges or service fees from the sale of mutual funds.

### **Item 6 – Performance-Based Fees and Side-By-Side Management**

Kirkwood only manages one client account, which is the Fund. An affiliate of Kirkwood serves as the general partner of the Fund and receives performance-based compensation. Please see Item 5 above for a more detailed description of the general partner's performance-based compensation.

### **Item 7 – Types of Clients**

Kirkwood's sole client is the Fund, which is a private pooled investment vehicle organized as a domestic limited partnership. The minimum initial investment in the Fund is \$1,000,000, subject to reduction at the sole discretion of Kirkwood. Minimum withdrawal amounts and minimum capital account size may apply in the event of a partial withdrawal. An Investor also may be required to withdraw all or part of its interest in the Fund upon notice. All Investors must be qualified purchasers and qualified clients.

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

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

Kirkwood primarily invests the Fund's assets in securities that are believed to be fundamentally undervalued across a variety of industry sectors and market capitalizations. The Fund takes concentrated long positions in equity and debt securities and will regularly short sell securities either as hedges against a particular risk exposure or, more commonly, because Kirkwood believes the security offers a compelling risk-reward opportunity. There is no guarantee that Kirkwood's methods of analysis and investment strategies will succeed. Investing in the Fund involves risk of loss that Investors should be prepared to bear.

### **8.B. Material Risks of Investment Strategies**

There can be no guarantee of success of Kirkwood's strategy and the success of the strategy may be adversely affected by general economic and market conditions such as market changes, interest rates, availability of credit, inflation rates, changes in laws and political circumstances. These factors may affect the level and volatility of security pricing and the liquidity of certain investments.

Management Risk. Assessments about the value and potential appreciation of a particular security may be wrong and there is no guarantee that individual securities will perform as expected. The value of an individual security can be more volatile than the market as a whole and Kirkwood's approach may fail to produce the intended results.

Accuracy of Public Information. Kirkwood selects investments in large part on the basis of information and data filed by issuers with various government regulators. Although Kirkwood reviews this information, it is not in a position to confirm the completeness, genuineness or accuracy of such information and data, and in some cases, complete and accurate information is not available. Moreover, if the data Kirkwood receives is erroneous, or if companies report information that proves to be misleading or fraudulent, the basis for Kirkwood's analysis of individual companies may break down.

Market Risk. The value of equity securities will decline from time-to-time due to daily fluctuations in the securities markets. Stock prices change daily as a result of many factors, including developments affecting the condition of both individual companies and the market in general. The price of a stock may even be affected by factors unrelated to the value or condition of its issuer, such as changes in interest rates, national and international economic and/or political conditions and general equity market conditions. In a declining stock market, prices for all companies may decline regardless of their long-term prospects.

Leverage. The Fund may borrow without limitation and may use various lines of credit and other forms of leverage, including swaps and repurchase agreements. In addition, due to the limitations on transfer and redemption of certain of the Fund's investments, leverage may be a significant tool that the Fund may employ to maintain sufficient liquidity to pursue its investment objectives. While leverage presents opportunities for increasing total return, it also may generate increased losses beyond what might result without the use of leverage. If income and appreciation on investments made with borrowed funds are less than the required interest payments on the borrowings, the value of such investments will decrease.

Turnover. The Fund may invest on the basis of certain short-term market considerations. The turnover rate within the Fund's investments may be significant, potentially involving substantial brokerage commissions and fees.

### **8.C. Material Risks of Securities Used in Investment Strategies**

Kirkwood's investment approach generally involves investing in publicly traded equity securities in North American businesses but may also involve investing in debt securities, options, warrants, currencies and international equity securities. Investments in the securities Kirkwood selects may be more volatile than the overall market. Security values may fluctuate based on events such as technological developments, government regulation, competition and outbreaks of war or terrorism acts, which are beyond Kirkwood's control. The following risks are associated with the types of securities that are traded by Kirkwood:

Equity Risk. Regardless of any one company's particular prospects, a declining stock market may produce a decline in prices for all equity securities, which would generally also result in losses for the Fund's holdings.

Fixed Income Securities. Kirkwood may also invest a portion of the Fund's assets in bonds or other fixed income securities, including, without limitation, bonds, notes and debentures issued by corporations; municipalities; debt securities issued or guaranteed by the U.S. Government or one of its agencies or instrumentalities; commercial paper; and "higher yielding" (and, therefore, higher risk) debt securities. These securities may pay fixed, variable or floating rates of interest, and may include zero coupon obligations. Fixed income securities are subject to the risk of the issuer's inability to meet principal and interest payments on its obligations (i.e., credit risk) and are subject to price volatility due to such factors as interest rate sensitivity, market perception of the creditworthiness of the issuer and general market liquidity (i.e., market risk). It is likely that a major economic recession could disrupt severely the market for such securities and may have an adverse impact on the value of such securities. In addition, it is likely that any such economic downturn could adversely affect the ability of the issuers of such securities to repay principal and make interest payments and increase the incidence of default for such securities.



Concentration Risk. A significant portion of the Fund's investments may be concentrated in only a few securities, industries, countries or geographic regions. This concentration may cause a proportionately greater loss than if the Fund's investments were more diversified.

Competition. The issuers of equity securities selected by Kirkwood for the Fund's portfolio may have significant market competitors and there is no guarantee that a portfolio security will perform better than securities issued by competitors and such securities are subject to risks of competing with other companies with regard to product lines, technology advancements and/or management styles.

Illiquid Investments. Some of the Fund's investments may not be publicly traded and will be subject to legal or other restrictions on transfer. In addition, the Fund may acquire publicly traded securities that have only a limited liquidity due to limited trading volume or other factors. As a result, it may be impossible for Kirkwood to liquidate the Fund's investments when desired or to realize their fair value in the event of such liquidation.

Foreign Investments. The Fund may invest outside the U.S. or in securities denominated in non-U.S. currencies. Such investments pose currency exchange risks (including blockage, devaluation and non-exchangeability) as well as a range of other potential risks including, expropriation, confiscatory taxation, political or social instability, illiquidity, price volatility and market manipulation. Further, foreign securities markets may not be as liquid as U.S. markets. Transaction costs of investing outside the U.S. are generally higher than in the U.S. Less government supervision and regulation of exchanges, brokers and issuers generally exists abroad than in the U.S., and it is more difficult to take appropriate legal action in non-U.S. courts. In addition, non-U.S. markets have different clearance and settlement procedures than U.S. markets. Some foreign markets have at times failed to keep pace with the volume of transactions, thereby creating substantial delays and settlement failures that could adversely affect the Fund's performance.

Short Positions. A short sale involves the sale of a security that the Fund does not own in the expectation of purchasing the same security (or a security exchangeable for such security) at a later date at a lower price. To make delivery to the buyer, the Fund must borrow the security, and is obliged to return the security to the lender, which is accomplished by a later purchase of the security. A profit or a loss results from a short sale if the price of the security decreases or increases, respectively, between the date of the short sale and the date on which the short position is covered, i.e., the security to replace the borrowed security is purchased. A short sale involves the theoretically unlimited risk of an increase in the market price of the security that would result in a theoretically unlimited loss.

Derivatives. The Fund may invest in complex derivative instruments which seek to modify or replicate the investment performance of particular securities, commodities, currencies, interest rates, indices or markets on a leveraged or unleveraged basis. These instruments generally have counterparty risk and may not perform in the manner the counterparties expect, thereby resulting in significant loss or gain to the investor. These investments are all subject to additional risks that can result in substantial or total loss of all or part of an investment, in particular, interest rate and credit risk volatility, world and local market price and demand, and general economic factors and activity. Derivatives may have very high leverage embedded in them, which could substantially magnify market movements and result in losses greater than the amount of the investment. The markets in which the Fund may effect derivative transactions may be “over-the-counter” or “inter-dealer” markets. The participants in such markets are typically not subject to credit evaluation and regulatory oversight as are members of “exchange-based” markets. This exposes the Fund to the risk that a counterparty will not settle a transaction in accordance with its terms and conditions because of a credit or liquidity problem with the counterparty. Delays in settlement may also result from disputes over the terms of the contract (whether or not bona fide) since such markets may lack the established rules and procedures for swift settlement of disputes among market participants found in “exchange-based” markets. These factors may result in losses due to adverse market movements while replacement transactions are executed. Such “counterparty risk” is present in all swaps, and is accentuated for contracts with longer maturities where events may intervene to prevent settlement, or where the Fund has concentrated its transactions with a single or small group of counterparties. The Fund will not be restricted from dealing with any particular counterparty or from concentrating any or all of its transactions with one counterparty.

Reliability of Valuations. As a general matter, securities that are illiquid, not traded on an exchange or in an established market, or for which no value can be readily determined will be assigned such fair value as Kirkwood may determine in its judgment based on various factors. Such factors generally include, but are not limited to, aggregate dealer quotations or independent appraisals. Such valuations may not be indicative of what actual fair market value would be in an active, liquid or established market. Even where a security is subject to active trading in a market for which current quotation and last-sale reports are readily available, such reports often relate to small quantities of a given security and possibly may not provide accurate information about the market for a larger quantity of such securities or securities subject to transfer restrictions. Furthermore, if the Fund purchases or sells a security on dates close to the valuation date for that security, the quotation and last sale price may be substantially affected.

Regulatory Oversight. The Fund is not registered as an investment company under the Investment Company Act of 1940 and, therefore, will not be entitled to the various protections afforded by that act with respect to the Fund's investments.

Any Investor who subscribes, or proposes to subscribe to an investment in the Fund must be able to bear the risks involved and must meet the Fund's suitability requirements. No assurance can be given that the Fund's investment objectives will be achieved. Fund investments are typically speculative and involve a substantial degree of risk. For further information regarding the risk factors and conflicts of interest with respect to the Fund, please refer to the Fund's offering documents.

### **Item 9 – Disciplinary Information**

Registered investment advisers are required to disclose all material facts regarding any legal or disciplinary events that would be material to your evaluation of them or the integrity of their management. Kirkwood has no information applicable to this Item.

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

#### **10.A. Registered Representatives**

Neither Kirkwood nor Kirkwood's management persons are registered, or have an application pending to register, as a broker-dealer or a registered representative of a broker/dealer.

#### **10.B. Other Registrations**

Neither Kirkwood nor Kirkwood's management persons are registered or have an application pending to register, as a futures commission merchant, commodity pool operator, commodity trading advisor, or an associated person of the foregoing entities.

#### **10.C. Material Relationships or Arrangements**

Kirkwood Capital, LLC, is Kirkwood's general partner. Kirkwood Capital, LLC is controlled by David Rabinowitz. Another affiliate of Kirkwood, Kirkwood Advisors, LLC, serves as the general partner to the Fund. Kirkwood Advisors, LLC is also controlled by David Rabinowitz.

Gotham Asset Management, LLC ("Gotham") provides back office services such as fund valuation and shareholder services to the Fund for a fee which Kirkwood believes is reasonable and within market rates for these types of services. In addition, an affiliate of Gotham owns an interest in Kirkwood and the general partner of the Fund. By virtue of these relationships, Gotham and its affiliates have access to information about the Fund and its

investments that may not be readily available to other Investors, or may not be available at all.

Kirkwood owns an interest in Cargo Investment Management, L.P. (“Cargo”), an investment adviser exempt from registration, Cargo IM, LLC, the general partner to Cargo, and Cargo Partners GP, LLC, the general partner to a pooled investment vehicle managed by Cargo. Kirkwood personnel are not involved in the investment activities, such as trading and making investment decisions, for Cargo.

#### **10.D. Recommendation of Other Investment Advisers**

Kirkwood does not select or recommend other investment advisers for the management of client assets.

### **Item 11 – Code of Ethics**

#### **11.A. Code of Ethics**

Kirkwood has adopted a Code of Ethics (the “Code”) pursuant to Advisers Act Rule 204A-1. A basic principle of the Code is that the collective interests of the Fund’s Investors are always placed first. The Code includes standards of business conduct requiring covered persons to comply with the federal securities laws and the fiduciary duties an investment adviser owes to its clients. The Code also requires that all covered persons comply with ethical restraints relating to clients and their accounts. These restraints include restrictions on gifts. They also include provisions intended to prevent violations of insider trading laws. Investors or prospective Investors in the Fund may obtain a copy of the Code by contacting Kirkwood at (212) 319-4418.

#### **11.B. Recommendations of Securities and Material Financial Interests**

Kirkwood and its related persons do not recommend to clients, or buy or sell for client accounts, securities in which Kirkwood or a related person has a material financial interest, such as buying or selling, as a principal, securities to or from clients; acting as a general partner in a partnership in which Kirkwood solicits client investments; or acting as an investment adviser to an investment company that Kirkwood recommends to clients.

#### **11.C. Personal Trading**

Kirkwood has adopted the Code to ensure that personal investing activities by Kirkwood’s employees are consistent with Kirkwood’s fiduciary duty to its clients. All employees are required to pre-clear with the Chief Compliance Officer any personal securities transaction in specified securities, including IPOs and limited offerings. All employees are required to submit quarterly personal securities transactions and annual holdings reports for review by

the Chief Compliance Officer, who will, in turn, review these reports for trading conflicts with the Fund.

#### **11.D. Timing of Personal Trading**

Employees may not invest in the same securities (or related instruments, such as warrants, options or futures) that are owned by the Fund without approval by the Chief Compliance Officer. All employees are required to notify the Chief Compliance Officer or his designee in order to pre-clear personal security transactions.

### **Item 12 – Brokerage Practices**

#### **12.A. Selection of Broker/Dealers**

Kirkwood's objective in selecting brokers and dealers and in effecting the Fund's portfolio transactions is to seek to obtain the best combination of price and execution with respect to the Fund's portfolio transactions. The best net price, giving effect to brokerage commissions, spreads and other costs, is normally an important factor in this decision, but a number of other judgmental factors are deemed relevant. In applying these factors, Kirkwood recognizes that different broker-dealers may have different execution capabilities with respect to different types of securities. The factors include, but are not limited to:

- price;
- the size of the transaction;
- the nature of the market for the security and the timing and impact of the trades on such market;
- the amount of the commission or size of the spread;
- the ability to fulfill the order in a timely manner;
- the broker-dealer's clearance and settlement capabilities;
- the broker-dealer's trade error rate and ability or willingness to correct errors;
- the timing of the transaction, taking into account market prices and trends;
- the reputation, experience and financial stability of the broker-dealer; and
- the quality of service rendered by the broker-dealer in other transactions.

#### **Research and Other Soft Dollar Benefits**

Kirkwood does not currently maintain any arrangements where it receives products and services from brokers in connection with client securities transactions. Should Kirkwood

enter into any arrangements or receive products or services on an ongoing basis from broker/dealers it would limit the use of any “soft dollars” to services that constitute brokerage within the meaning of Section 28(e) of the Securities Exchange Act of 1934.

#### Brokerage for Client Referrals

Kirkwood does not maintain any referral arrangements with broker/dealers.

#### Directed Brokerage

Kirkwood does not accept directed brokerage.

#### Trade Errors

When a trade error occurs, Kirkwood will reasonably determine how to correct the error. In general, if the trade error results in losses, the losses will not be reimbursed to the Fund. Documentation of any errors made will be maintained by Kirkwood.

### **12.B. Aggregation of Orders**

Kirkwood currently only manages the Fund and consequently does not aggregate trades among clients.

## **Item 13 – Review of Accounts**

### **13.A. Frequency and Nature of Review**

David Rabinowitz (Kirkwood’s principal) is responsible and has ultimate authority for all trading and investment decisions made on behalf of the Fund. At least quarterly, the Fund’s portfolio is reviewed by Mr. Rabinowitz to ensure compliance with the Fund’s objectives and restrictions as stated in the Fund’s offering documents.

### **13.B. Factors That May Trigger An Account Review Outside of Regular Review**

The Fund’s investments are reviewed on an ongoing basis and may be reviewed specifically with regard to certain factors such as cash flows or in response to market conditions.

### **13.C. Content and Frequency of Reports**

Kirkwood, or its service provider, makes available to each Fund Investor the following written reports:

- The Fund’s administrator provides monthly statements that include the unaudited net asset value or capital account balance of the Investor’s interest in the Fund and

the year-to-date performance, as applicable;

- Kirkwood provides a periodic commentary or an Investor letter; and
- Kirkwood delivers annual audited financial statements of the Fund.

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

Kirkwood does not receive any economic benefits from persons other than clients for providing investment advice or other advisory services to your clients. Kirkwood does not currently maintain any referral arrangements with individuals or entities that may be compensated, directly or indirectly. If Kirkwood were to enter into an arrangement with a third party, they would do so in accordance with Rule 206(4)-3 of the Adviser's Act.

#### **Item 15 – Custody**

Kirkwood is deemed to have custody of client funds and securities according to Advisers Act Rule 206(4)-2 because an affiliate serves as general partner to the Fund. Kirkwood does not take or maintain physical custody of any Fund assets and conducts business operations in such a way that all Fund cash and investments are in the safekeeping of independent qualified custodians. The Fund's custodians are banks or broker-dealers unaffiliated with Kirkwood. Additionally, Kirkwood distributes to the Fund's investors audited financial statements within 120 days following the Fund's fiscal year end.

#### **Item 16 – Investment Discretion**

Kirkwood is retained by the general partner of the Fund, pursuant to the Fund's limited partnership agreement and an investment management agreement between the Fund and Kirkwood, to provide investment advisory services on a discretionary basis to the Fund. Kirkwood is authorized to make the following decisions according to the Fund's specified investment objectives without further consultation or consent before a transaction is effected:

- Which securities to buy or sell;
- The broker or dealer through whom securities are bought or sold;
- The total amount of securities to buy or sell;
- The commission rates at which securities transactions for the Fund's account are effected; and
- The prices at which securities are to be bought or sold, which may include dealer spreads or mark-ups and transaction costs.

Investments for the Fund are managed in accordance with the Fund's investment objectives, strategies and restrictions, and are not tailored to the individualized needs of any particular

Investor in the Fund. Therefore, Investors should consider whether the Fund meets their investment objectives and risk tolerance prior to investing. Information about the Fund can be found in its offering documents, which are available to current and prospective Investors only through Kirkwood.

### **Item 17 – Voting Client Securities**

It is Kirkwood’s policy to vote proxies on behalf of the Fund in accordance with Kirkwood’s proxy voting policies and procedures. Kirkwood will vote such securities for the exclusive benefit, and in the best economic interest, of the Fund and its Investors, as determined by Kirkwood in good faith. It is not possible for Investors in the Fund to direct votes made by Kirkwood on behalf of the Fund.

Kirkwood may not vote proxies depending on circumstances. Kirkwood acknowledges its responsibility for identifying material conflicts of interest related to voting proxies. If a conflict may exist which cannot be otherwise addressed, Kirkwood may choose one of several options including “echoing” or “mirroring” voting the proxies in the same proportion as the votes of other proxy holders that are not Kirkwood clients. A copy of Kirkwood’s proxy voting policies and procedures and records of how Kirkwood voted are available upon request.

### **Item 18 – Financial Information**

#### **18.A. Advance Payment of Fees.**

Kirkwood does not require or solicit prepayment of fees from clients, six months or more in advance.

#### **18.B. Financial Condition**

Kirkwood has no financial commitments that impair its ability to meet contractual commitments and fiduciary commitments to clients.

#### **18.C. Bankruptcy Proceedings**

Kirkwood has not been the subject of a bankruptcy proceeding.