

**ITEM 1**

**COVER PAGE**

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**PART 2A OF FORM ADV: FIRM BROCHURE**

**Mount Kellett Capital Management LP**

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March 31, 2023

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This brochure provides information about the qualifications and business practices of Mount Kellett Capital Management LP. If you have any questions about the contents of this brochure, please contact us at (212) 798-6100. The information in this brochure has not been approved or verified by the United States Securities and Exchange Commission (the "SEC") or by any state securities authority. Registration with the SEC does not imply a certain level of skill or training.

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

## **ITEM 2**

### **MATERIAL CHANGES**

There were no material changes made to the brochure since the Adviser's last annual update of the brochure dated March 31, 2022.

## ITEM 3

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## ITEM 4

### ADVISORY BUSINESS

Mount Kellett Capital Management LP (together with its affiliates, the "Adviser") is a Delaware limited partnership formed in 2008. The Adviser provides investment management and related services to private pooled investment vehicles and managed accounts for institutional investors (the "Mount Kellett Funds"). The Mount Kellett Funds are U.S. and non-U.S. limited partnerships and other investment vehicles that are not registered or required to be registered pursuant to an exemption under the U.S. Investment Company Act of 1940 and the equity interests of which are not required to be registered pursuant to the U.S. Securities Act of 1933. The Mount Kellett Funds include private equity style funds, and managed accounts, which managed accounts are in the form of investment vehicles established for a single institutional investor or for a limited number of investors who are clients of the same third party institutional asset manager.

The Adviser maintains an office in New York. The principal owner of the Adviser is Mark McGoldrick. As of December 31, 2022, the Adviser's regulatory assets under management equaled approximately \$350,733,298.

The Adviser, jointly with Fortress MK Advisors LLC (together with its parent entity, FIG LLC and its other affiliates, the "Fortress Manager"), has discretionary authority with respect to investment decisions of the Mount Kellett Funds, except, as previously disclosed to investors in the Mount Kellett Funds, with respect to several specific investments for which the Adviser has sole discretionary authority. The Adviser's advice with respect to the Mount Kellett Funds is made in accordance with the investment objectives and guidelines as set forth in the Mount Kellett Funds' respective offering memoranda, organizational documents and investment management agreements (collectively, the "Fund Documents").

The primary investment strategy pursued by the Adviser on behalf of the Mount Kellett Funds has historically focused on opportunistic investments globally across asset classes, capital structures and geographies, including, but not limited to, investments in the debt and equity of private and public companies, bank loans and bonds, distressed and stressed investments, including control positions, single credits, portfolios of corporate loans, consumer receivables and mortgage loans, and real estate and real-estate-related securities. The Adviser may compensate unaffiliated individuals or firms in connection with investments sourced by such individuals or firms or for other transactions. The investment periods of all of the Mount Kellett Funds have expired, and except for follow-on investments (and certain other types of permissible fundings) in certain existing portfolio companies and certain hedging positions, the Mount Kellett Funds are no longer actively making new investments.

## ITEM 5

### FEES AND COMPENSATION

The Adviser, the Fortress Manager and their respective affiliates generally receive management fees and carried interest in connection with the investment management services that they provide to the Mount Kellett Funds, which are generally calculated in accordance with the methodology described below. All such management fees and carried interest due in respect of the Mount Kellett Funds is shared between the Adviser and the Fortress Manager in accordance with the terms of the agreements entered into between the Adviser and the Fortress Manager in connection with that certain strategic alliance transaction between the Adviser and the Fortress Manager, dated July 31, 2015 (the "Strategic Alliance Transaction").

The Adviser and the Fortress Manager generally receive a management fee, paid quarterly in advance, equal in the aggregate to 2.0% per annum of invested capital. In the case of certain of the managed accounts co-managed by the Adviser and the Fortress Manager, the Adviser and the Fortress Manager receive a management fee, paid quarterly in advance, equal in the aggregate to 2.0% per annum of net asset value of the applicable managed account.

Generally, the Adviser and the Fortress Manager receive distributions equal in the aggregate to 20% of profits upon realization of investments, after the return of all contributed capital plus a preferred return. In certain instances such carried interest distributions may be subject to a claw-back obligation.

Certain institutional investors in the Mount Kellett Funds are subject to reduced management fees and carried interest. Affiliates and employees (including former employees) of the Adviser and the Fortress Manager who have investments in the Mount Kellett Funds are generally not subject to any management fees or carried interest.

#### *Additional Fees and Expenses*

In addition to the management fees and carried interest described above, Mount Kellett Funds may bear additional fees and expenses in accordance with the Fund Documents for the applicable Mount Kellett Fund, such as the following non-exhaustive list of items:

- fees and expenses related to the acquisition, financing, holding, monitoring, hedging or disposition of Mount Kellett Fund investments
- due diligence costs
- broken deal expenses
- brokerage commissions
- clearing and settlement charges
- expenses relating to short sales
- all other expenses related to the purchase, sale or transmittal of the applicable Mount Kellett Fund's assets including for office space and infrastructure, rent, and salaries relating to Mount Kellett's Mauritius and Irish investment platforms
- extraordinary expenses (including litigation, indemnification and contribution expenses)

- bank service fees
- fees and expenses of custodians, consultants, and experts
- travel and entertainment expenses incurred for investment-related purposes
- outside legal counsel, consultants and accountants
- the cost of operational and accounting software and related expenses
- other legal, operating, accounting, tax return preparation and consulting, auditing, appraisal and administrative expenses and fees for outside services
- cost of software (including the fees of third-party software developers) used by the Adviser to track and monitor investments
- administrator's fees, fees of valuation firms and pricing services
- expenses for liability insurance, including directors' and officers' liability insurance, and other insurance expenses
- taxes and other governmental fees and charges
- asset management fees and servicing and special servicing fees whether paid to third parties or to affiliates of the Adviser or the Fortress Manager
- meetings of the advisory board; annual or special meetings of the partners and periodic reports to the partners costs of printing and mailing reports and notices
- withholding and other investment-related taxes

More detailed information about specific fees and expenses that the Mount Kellett Funds may bear is set forth in the Fund Documents provided to underlying investors in the applicable Mount Kellett Funds.

Certain of the Adviser's determinations with respect to whether specific expenses should be borne by the Adviser or by the Mount Kellett Funds require subjective judgments. The Adviser has a conflict of interest when making such judgments because the Adviser will bear the costs of any expenses not allocated to a Mount Kellett Fund. The Adviser seeks to allocate expenses in a manner that it deems to be fair and equitable.

## **ITEM 6**

### **PERFORMANCE-BASED FEES AND SIDE-BY-SIDE MANAGEMENT**

Affiliates of the Adviser, together with affiliates of the Fortress Manager, accept performance-based compensation in the form of carried interest.

Due to the method of calculating the carried interest, the compensation of the affiliates of the Adviser who receive such amounts may be affected by the timing of dispositions and other factors which may be within the control of the Adviser.

## **ITEM 7**

### **TYPES OF CLIENTS**

The clients to whom the Adviser provides investment advice are private investment funds and the underlying investors in such private investment funds are typically institutional and high net worth investors. The Adviser also provides investment advice to managed accounts, which are established either as investment vehicles for a single institutional investor or as pooled investment vehicles for a limited number of investors who are clients of the same third-party institutional asset manager.

With limited exception where permitted by applicable law, the underlying investors in the Mount Kellett Funds were required as of the date of their investment in the applicable Mount Kellett Fund to be "qualified purchasers" as that term is defined in Section 2(a)(51) of the Investment Company Act (with the exception of certain persons who qualify as "knowledgeable employees" under Rule 3(c)-5 of the Investment Company Act).

## **ITEM 8**

### **METHODS OF ANALYSIS, INVESTMENT STRATEGIES AND RISK OF LOSS**

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

The Adviser has historically sought to pursue an investment objective on behalf of the Mount Kellett Funds by acquiring investments and portfolios of investments primarily in North America, Asia and Europe. In North America and in Europe, the Mount Kellett Funds generally pursued opportunities in opportunistic stressed and distressed debt and equity (public and private) investments as well as special situation real estate transactions (both debt and equity-related). In Asia, the Mount Kellett Funds generally pursued investments in private opportunistic equity investments. As the investment periods of all of the Mount Kellett Funds expired as of July 31, 2015, the Mount Kellett Funds are no longer making new investments, although in certain limited circumstances, some Mount Kellett Funds may make follow-on investments (and certain other types of permissible fundings, including capital expenditures and the satisfaction of ongoing fundings obligations) into existing portfolio companies. Since the expiration of the investment periods of all of the Mount Kellett Funds, the Adviser and the Fortress Manager have been focused on the continued management of existing investments with a goal of returning capital to investors in the Mount Kellett Funds.

#### *Risks Relating to Investment Strategies*

An investment in the Mount Kellett Funds is speculative and entails substantial risks. There can be no assurance that the investment objectives of the Mount Kellett Funds will be achieved. The risk management approach followed by the Adviser and the Fortress Manager with respect to the Mount Kellett Funds seeks to isolate and mitigate, not eliminate, risk and there may be certain risks that the Adviser determines should not or cannot be hedged against. Accordingly, the activities of the Adviser could result in substantial losses under certain circumstances.

The following risk factors do not purport to be a complete list or explanation of the risks relating to investors' investments in the Mount Kellett Funds or the investments currently held by the Mount Kellett Funds. These risk factors include only those risks the Adviser believes to be material and relate to the existing investments held by the Mount Kellett Funds. More detailed descriptions of risk factors are included in the applicable Mount Kellett Funds' offering documents.

#### *Illiquidity of Investments*

The Mount Kellett Funds have invested a significant amount of their capital in securities, loans or other assets for which no, or only a limited, market exists or that are subject to legal or other restrictions on transfer. The market prices, if any, for such assets tend to be volatile, and may fluctuate due to a variety of factors that are inherently difficult to predict, including, but not limited to, changes in interest rates, prevailing credit spreads, general economic conditions, financial market conditions, domestic or international economic or political events, developments or trends in any particular industry, and the financing condition of the obligors on the Mount Kellett Funds' assets. Accordingly, the Mount Kellett Funds may not be able to sell assets when the Mount Kellett Funds desire to do so or to realize what the Adviser and the Fortress Manager perceive to be the fair value of their assets in the event of a sale. The sale of illiquid assets and restricted securities often requires significant amounts of time and the incurrence of significant selling expense by the Mount Kellett Funds. Restricted securities may sell at a price lower than similar securities that are not subject to restrictions on resale. In addition, in times of extreme market disruption, there may be no market at all for one or more of the asset classes held by the Mount Kellett Funds, potentially resulting in the inability of the Mount Kellett Funds to dispose of their assets for an indefinite period of time.

#### *Dependence Upon Key Management*

The success of the Mount Kellett Funds depends on the ability of Mark McGoldrick as well as Peter Briger and Dean Dakolias and other members of the Fortress Manager's investment and asset management teams to dispose of or liquidate investments in a manner that maximizes value.

#### *Joint Decision Making Authority of the Adviser and the Fortress Manager*

As a result of sharing decision making authority with the Fortress Manager, it may take the Adviser longer to make decisions with respect to the Mount Kellett Funds than it otherwise would were the Adviser to have sole decision making authority for the Mount Kellett Funds. In particular, disagreements between the Adviser and the Fortress Manager may result in delays in making decisions since both the Adviser and the Fortress Manager must jointly make all decisions regarding the management of the Mount Kellett Funds, except, as previously disclosed to investors in the Mount Kellett Funds, with respect to several specific investments for which the Adviser has sole decision making authority.



### *Distressed Assets*

The Mount Kellett Funds invested a portion of their assets in distressed assets. Such investments could entail a substantial degree of risk. Any one or all of the issuers of such securities and instruments may be unsuccessful or not show any return for a considerable period of time. An economic downturn or a period of rising interest rates, for example, could cause a decline in the values of such securities and instruments.

In any reorganization or liquidation proceeding relating to a company in which a Mount Kellett Fund invests, such Mount Kellett Fund may lose its entire investment, may be required to accept cash or securities with a value less than that of Mount Kellett Funds' original investment and/or may be required to accept payment over an extended period of time. Under such circumstances, the returns generated from that Mount Kellett Funds' investments may not provide adequate compensation for the risks assumed.

Investments in securities and in financial instruments and other obligations issued by distressed companies require active monitoring and will often require participation in business strategy or reorganization proceedings by the Mount Kellett Funds and their representatives, including the Adviser and the Fortress Manager. To the extent that the Mount Kellett Funds and their representatives become involved in such proceedings, the Mount Kellett Funds may have a more active participation in the affairs of the company than it would otherwise have. In addition, involvement by the Adviser, the Fortress Manager and their respective representatives in an issuer's reorganization proceedings could result in the imposition of restrictions limiting the Mount Kellett Funds' ability to liquidate their position in the issuer for a certain period of time under applicable insolvency or securities laws.

### *Real Estate*

The Mount Kellett Funds invested a significant portion of their capital invested in real estate and real estate-related assets. Real estate values may be affected by a number of factors, including, but not limited to, changes in national or international economic climate, adverse local and regional market conditions (such as an oversupply of space or a reduction in demand for space), the quality and philosophy of management, competition based on rental rates, attractiveness and location of the properties, financial conditions of tenants, buyers and sellers of properties, quality of maintenance, insurance and management services, changes in operating costs and changes in interest rates. Such real estate values are also affected by such factors as government regulations, environmental laws and regulations, changes in property taxes, changes in the tax laws, zoning requirements, interest rate levels, the availability of financing and potential liability under changing environmental and other laws, uninsurable losses, acts of God and other factors beyond the control of the Mount Kellett Funds.

The real estate and real estate-related assets in which the Mount Kellett Funds have invested are subject to the impact of leverage at the property and/or entity levels which may serve to amplify gain or loss with respect to such investments.

### *High Yield Debt*

The Mount Kellett Funds invested a portion of their capital in debt, including, without limitation, "higher yielding" (and, therefore, generally higher risk) debt securities. In most cases, such debt is rated below "investment grade" or will be unrated and face ongoing uncertainties and exposure to adverse business, financial or economic conditions and the issuer's failure to make timely interest and principal payments. The market for high-yield securities has experienced periods of volatility and reduced liquidity. The market values of certain of these debt securities may reflect individual corporate developments. It is likely that a general economic recession or a major decline in the demand for products and services provided by the obligor could have a materially adverse impact on the value of such securities. In addition, adverse publicity and investor perceptions, whether or not based on fundamental analysis, may also decrease the value and liquidity of these debt securities.

### *Mezzanine Loans*

The investment portfolios of the Mount Kellett Funds have included mezzanine loans. A mezzanine loan is a privately negotiated, high yield and often unsecured subordinated debt obligation of an issuer that is unrated or rated below investment grade, the payments on which obligation often contain a form of equity participation in the issuer. Mezzanine loans typically have greater credit and liquidity risk than loans and are typically less liquid than high-yield bonds. A mezzanine loan may not have any public rating from a rating agency, nor will it have been registered with any securities regulator. Mezzanine finance generally comprises a secured loan which is subordinated in terms of priority of repayment and security behind the senior debt and therefore has a higher risk profile than senior debt. Because of the greater risk, mezzanine lenders may be granted options or warrants to acquire equity securities in the borrower that can be exercised in certain circumstances, principally being immediately prior to the sale of the borrower or an initial public offering of its equity securities. Many of the mezzanine loans purchased by the Mount Kellett Funds have no, or only a limited, trading market. In general, there is a very limited secondary market for mezzanine loans. Illiquidity in the market for mezzanine loans may restrict the Mount Kellett Funds' ability to dispose of investments in mezzanine loans in a timely fashion and for a fair price. Mezzanine loans may become non-performing for a variety of reasons. Such non-performing mezzanine loans may require substantial workout negotiations or restructuring that may entail, among other things, a substantial reduction in the interest rate, a substantial write down of the principal of the loan and/or the deferral of payments. In addition, the Mount Kellett Funds may incur additional expenses to the extent they are required to seek recovery upon a default on a mezzanine loan or participate in the restructuring of such obligation. Although the Adviser, the Fortress Manager and their respective affiliates may exercise voting rights with respect to an individual mezzanine loan on behalf of a Mount Kellett Fund, there can be no certainty that the Adviser, the Fortress Manager and their respective affiliates will be able to exercise votes in respect of a sufficient percentage of voting rights with respect to such mezzanine loan to determine the outcome of such vote.

Issuers of mezzanine loans are likely to be highly leveraged and typically do not have available to them more traditional methods of financing. The risk associated with acquiring the securities

of such issuers generally is greater than is the case with investment grade securities of corporate issuers. The prices of mezzanine loans are likely to be more sensitive to adverse economic changes or individual corporate developments than investment grade securities of corporate issuers. For example, during an economic downturn or a sustained period of rising interest rates, issuers of mezzanine loans may be more likely to experience financial stress, especially if such issuers are highly leveraged. During such periods, timely service of debt obligations may also be adversely affected by specific issuer developments, the issuer's inability to meet specific projected business forecasts or the unavailability of additional financing. The risk of loss due to default by the issuer is significantly greater for the holders of mezzanine loans because such securities often are unsecured and subordinated to other creditors of the issuer of such securities. In addition, due to the subordinated nature of the mezzanine loans, the Mount Kellett Funds' rights under, and its recovery on, the mezzanine loan may be severely limited if the issuer of the mezzanine loan becomes the subject of bankruptcy or insolvency proceedings. Furthermore, the issuer may incur additional expenses to the extent it is required to bring litigation in order to seek recovery upon a default on a mezzanine loan or participate in the restructuring of such obligation.

#### *Secured Loans*

The investment portfolios of the Mount Kellett Funds have included secured loans. While secured loans originated or purchased by the Mount Kellett Funds may have been structured to be over-collateralized, the Mount Kellett Funds may be exposed to losses resulting from default and foreclosure. Therefore, the value of the underlying collateral, the creditworthiness of the borrower and the priority of the lien are each of great importance. The Adviser cannot guarantee the adequacy of the protection of the Mount Kellett Funds' interests, including the validity or enforceability of the loan and the maintenance of the anticipated priority and perfection of the applicable security interests. Furthermore, the Adviser cannot assure that claims may not be asserted that might interfere with enforcement of the Mount Kellett Funds' rights. In the event of a foreclosure, the Mount Kellett Funds may assume direct ownership of the underlying asset. The liquidation proceeds upon sale of such asset may not satisfy the entire outstanding balance of principal and interest on the loan, resulting in losses to the Mount Kellett Funds. Any costs or delays involved in the effectuation of a foreclosure of the loan or a liquidation of the underlying property will further reduce the proceeds and thus increase the loss.

#### *Private Equity Investments*

The Mount Kellett Funds have owned minority equity stakes in privately held companies. The success of such Mount Kellett Funds' investments in minority equity stakes of privately held companies will depend in part on the performance and abilities of such companies' controlling shareholders. Because such Mount Kellett Funds will not control such companies, the Mount Kellett Funds' ability to exit from such investments may be limited. Additionally, such Mount Kellett Funds are likely to have a reduced ability to influence management of such companies. The Adviser and the Fortress Manager may also have disagreements with controlling shareholders over the strategy and operations of such companies. As a result of the foregoing, such Mount Kellett Funds' equity investments in such companies may perform poorly.

### *Public Equities*

The Mount Kellett Funds have invested in certain publicly traded equity securities. The value of these securities generally will vary with the performance of the issuer and movements in the equity markets. As a result, the Mount Kellett Funds may suffer losses with respect to investments in publicly traded equity securities of issuers whose performance diverges from the Adviser's expectations when such investments were made or if equity markets generally move in a particular direction and the Mount Kellett Funds have not hedged against such a general move. In addition, from time to time, the Mount Kellett Funds may hold investments in a public equity that it receives as a result of a previously private company going public. Such holdings are often subject to a holding period during which time the Mount Kellett Funds are not able to sell the security.

### *Derivative Instruments*

The Mount Kellett Funds have invested, and may for purposes of hedging existing investments continue to invest, in derivative instruments. Such derivative instruments include options, swaps, structured securities and other instruments and contracts that are derived from, or the value of which is related to, one or more underlying securities, financial benchmarks, currencies or indices. Derivatives typically allow an investor to hedge or speculate on the price movements of a particular security, financial benchmark, currency, index or commodity at a fraction of the cost of investing in the underlying asset. There is no assurance that derivatives the Mount Kellett Funds may wish to acquire will be available at any particular time and, if available, on satisfactory terms. The prices of many derivative instruments, including many options and swaps, are highly volatile.

The value of a derivative depends largely upon price movements in the underlying asset. Therefore, many of the risks applicable to trading the underlying asset are also applicable to derivatives of such asset. However, there are a number of other risks associated with derivatives trading. For example, derivative contracts may expose the Mount Kellett Funds to the credit risk of the parties with which the Mount Kellett Funds deal. In addition, the identity of counterparties to derivative transactions entered into by the Mount Kellett Funds are not always readily ascertainable or, if known, may change without the knowledge of the Adviser or the Fortress Manager. Non-performance of such contracts by counterparties, for financial or other reasons, could expose the Mount Kellett Funds to losses. Derivatives may also expose investors to liquidity risk, as there may not be a liquid market within which to close or dispose of outstanding derivatives contracts.

### *Global Investments*

The Mount Kellett Funds invested a significant portion of their net assets in the debt, loans, equity securities and other financial instruments issued by issuers located in countries outside the OECD. In addition to business uncertainties, such investments may be affected by political, social and economic uncertainty affecting a country or region. Many financial markets outside the OECD are not as developed or as efficient as those in OECD countries, and as a result, liquidity may be reduced and price volatility may be higher. The legal and regulatory

environment may also be different, particularly as to bankruptcy and reorganization. Financial accounting standards and practices may differ, and there may be less publicly available information in respect of such companies.

In connection with their investments outside of the OECD, the Mount Kellett Funds may be subject to additional risks which include possible adverse political and economic developments, possible seizure or nationalization of deposits and possible adoption of governmental restrictions which might adversely affect payments to investors located outside the country of the issuer, whether from currency blockage or otherwise. Investments made by the Mount Kellett Funds outside the U.S. may also subject the Mount Kellett Funds to the risk that they may be subject to penalties under the Foreign Corruption Practices Act as a result of the conduct of agents, consultants, finders, joint venture partners or companies in which the Mount Kellett Funds invest. Furthermore, the acquisition and sale of certain investments may be subject to brokerage taxes and duties levied by governments, which has the effect of increasing the cost of such investment and reducing the realized gain or increasing the realized loss on such investments at the time of sale. Income received by the Mount Kellett Funds from sources within some countries may be reduced by withholding and other taxes imposed by such countries. Any such taxes paid by the Mount Kellett Funds will reduce its net income or return from such investments. While the Mount Kellett Funds will take these factors into consideration in making investment decisions regarding the disposition or liquidation of investments held by the Mount Kellett Funds, no assurance can be given that the Mount Kellett Funds will be able to avoid these risks.

#### *Investments in Asia*

The Mount Kellett Funds invested a significant portion of their assets in Asian countries (that are outside of the OECD). The laws and regulations of such countries may impose restrictions that would not exist in the OECD countries. In addition, governments of such countries from time to time impose restrictions intended to prevent capital flight, which may, for example, involve punitive taxation (including high withholding taxes) on certain securities transfers or the imposition of exchange controls making it difficult or impossible to exchange or repatriate foreign currency. These, and other restrictions, may make it impracticable for the Mount Kellett Funds to distribute the amounts realized from such investments at all or may force the Mount Kellett Funds to distribute such amounts other than in U.S. dollars, and therefore a portion of such distributions may be made in foreign securities or currencies.

#### *European Investments*

The issuers of some of the securities or other instruments which the Mount Kellett Funds have purchased are companies or trusts located within the European Union and the United Kingdom. Investing in the securities or other instruments issued by such companies involves certain considerations, including political and economic considerations, such as risks of increased government regulation; contradictory U.S. and EU or U.K. regulatory regimes; fluctuations in the rate of exchange between currencies and costs associated with currency conversion; and certain government policies that may restrict the Mount Kellett Funds' investment opportunities.

With respect to certain European countries, there is a possibility of imposition of withholding or other taxes on dividends, interest, capital gains or other income. An issuer of securities may be domiciled in a country other than the country in whose currency the instrument is denominated. The values and relative yields of investments in the securities markets of different countries, and their associated risks, are expected to change independently of each other.

#### *Currency Exchange Exposure and Currency Hedging*

The Mount Kellett Funds' assets are generally denominated in the currency of the jurisdiction in which the assets are located. Consequently, the return realized on any investment whose functional currency is not the currency of the jurisdiction in which the assets are located may be adversely affected by movements in currency exchange rates, in addition to the performance of the investment itself. Furthermore, the Mount Kellett Funds may incur costs in connection with conversions between various currencies. Currency exchange dealers realize a profit based on the difference between the prices at which they are buying and selling various currencies. Thus, a currency exchange dealer normally will offer to sell currency to the Mount Kellett Funds at one rate, while offering a lesser rate of exchange should the Mount Kellett Funds desire immediately to resell that currency to the currency exchange dealer. The Mount Kellett Funds will conduct their currency exchange transactions either on a spot (i.e., cash) basis at the spot rate prevailing in the currency exchange market or through entering into forward or options contracts to purchase or sell currencies. A significant portion of the Mount Kellett Funds' investments is in assets denominated in currencies other than U.S. dollars. There is a risk that such currencies could depreciate significantly leading potentially to material adverse consequences for the applicable non-U.S. market (and therefore for investments made by the Mount Kellett Funds). In addition, governments from time to time intervene, directly and/or by regulation, in the currency markets, with the specific effect, or intention, of influencing prices which may, together with other factors, cause all of such markets to move rapidly in the same direction. The effect of such intervention is often heightened by a group of governments acting in concert.

There is also the risk that the price of executing a currency hedge transaction is or becomes prohibitively expensive and the Adviser may make the decision not to hedge an investment.

Foreign exchange transactions (including conversion and repatriation) by the Mount Kellett Funds may be subject to significant foreign exchange controls and may require the approval of, or registration with the local administration of, foreign exchange. There is no assurance that such approval or registration necessary for the conversion into U.S. dollars or other currencies and repatriation of such funds will be readily obtained.

#### *Political/Sovereign Risk*

The Mount Kellett Funds have invested a significant portion of their assets in investments located in North America, Western Europe, and other OECD countries and have also invested a significant portion of their assets outside of the aforementioned countries (such markets, "Emerging Markets"), including in China, India and other Asian jurisdictions. There has been an increasing trend towards protectionist trade policies in the U.S., and potentially other OECD countries. As such, the Mount Kellett Funds' investments, both within the U.S. (and other

OECD countries) and outside the U.S. (and such other OECD countries) could be adversely affected. In addition, the economies of Emerging Markets may differ favorably or unfavorably from those of OECD countries in such respects as growth of gross domestic product, rate of inflation, currency depreciation or appreciation, capital reinvestment, resource self-sufficiency and balance of payments position. Governments of many Emerging Markets have exercised and continue to exercise substantial influence over many aspects of the private sector. In some cases, the government owns or controls many companies, including some of the largest companies in such countries. Accordingly, government actions could have a significant effect on economic and market conditions in an Emerging Market. Moreover, the economies of Emerging Markets generally are heavily dependent upon international trade and, accordingly, have been and may continue to be adversely affected by trade barriers, exchange controls, managed adjustments in relative currency values and other protectionist measures imposed or negotiated by the countries with which they trade. These economies also have been and may continue to be adversely affected by economic conditions in the countries with which they trade. With respect to Emerging Markets, there is the possibility of nationalization, expropriation or confiscatory taxation, political changes, government regulation, economic or social instability, diplomatic developments (including war) or terrorism which could affect adversely the economies of such countries or the value of the Mount Kellett Funds' investments in such countries.

In addition, the inter-relatedness of the economies of certain Emerging Markets has deepened over the years, with the effect that economic difficulties in one country often spread to other Emerging Markets. No assurance can be given that the Mount Kellett Funds' investments will not be adversely affected by effects in countries outside of where investments are located.

#### *Natural Resource Investments*

The Mount Kellett Funds have made investments in the oil and gas and mining sectors, including companies engaged in the exploration, production and distribution of oil, gas and other natural resources. The development, production, transportation, and marketing of natural resources are subject to many risks and an investment that depends upon the continued and long-term success of these activities is inherently uncertain. Investments in such sectors may be affected by a number of factors not present with other investments, including, without limitation, uncertainty concerning the quality and size of the natural resource, uncertainty as to the cost of developing or producing the resource, local and global commodity price fluctuations, government regulation, environmental issues, shifts in supply and demand for such resources, land use and title issues, import and export duties and other trade issues, changing macroeconomic conditions, changes in fuel and other input prices and labor issues. In particular, there has been a significant adverse effect on the performance of the investments by the Mount Kellett Funds in companies operating in the oil and gas, mining and natural resources sectors as a result of decreases in the price of oil and other commodities. There is a risk that upon exit by the Mount Kellett Funds from their investments in the oil and gas, mining and natural resources sectors the Mount Kellett Funds may realize losses or fail to achieve a return on such investments in line with the Adviser's expectations when such investments were made.

#### *Regulatory Constraints*

The operation of the Mount Kellett Funds and the tax consequences of an investment in the Mount Kellett Funds are substantially affected by legal requirements, including those imposed by tax laws and related regulations. In addition, no assurance can be given that future legislation, administrative rulings or court decisions will not adversely affect the operation of the Mount Kellett Funds or an investment in a Mount Kellett Fund.

### *Taxation*

With respect to certain countries, there is a possibility of expropriation, confiscatory taxation, imposition of withholding or other taxes, duties or levies on dividends, interest, capital gains gross sale or disposition proceeds or other income, limitations on the removal of funds or other assets of the Mount Kellett Funds, political or social instability or diplomatic developments that could affect investments in those countries. An issuer of securities may be domiciled in a country other than the country in whose currency the instrument is denominated. The values and relative yields of investments in the securities markets of different countries, and their associated risks, are expected to change independently of each other. In addition, certain tax treaties that exist between various jurisdictions may change from time to time resulting in significantly higher levels of taxation upon exit of an investment.

### *Regulatory Risk*

There can be no assurance that the Adviser, its clients, their general partners, or any of their affiliates will avoid regulatory examination or enforcement actions. Even if an investigation or proceeding does not result in a sanction being imposed against the Adviser or any of its affiliates, or such sanction is small in monetary amount, the clients, their general partner, adviser and/or their respective affiliates may be subject to adverse publicity relating to the investigation, proceeding or imposition of such sanctions. There is also a risk that regulatory agencies in the United States and abroad will continue to adopt, change or enhance new or existing laws or regulations, which may result in additional regulatory scrutiny.

### *Systems Risk and Cybersecurity*

Cybersecurity is a generic term used to describe the technology, processes and practices designed to protect networks, systems, computers, programs and data from both intentional cyber-attacks and hacking by other computer users as well as unintentional damage or interruption that, in either case, can result in damage and disruption to hardware and software systems, loss or corruption of data, and/or misappropriation of confidential information. The Adviser increasingly relies on information and technology systems to conduct its business. The Adviser has procedures and systems in place that it believes are reasonably designed to protect such information and prevent data loss and security breaches. However, such measures cannot provide absolute security. The techniques used to obtain unauthorized access to data, disable or degrade service, or sabotage systems change frequently and may be difficult to detect for long periods of time. Hardware or software acquired from third parties may contain defects in design or manufacture or other problems that could unexpectedly compromise information security. Network connected services provided by third parties to the Adviser may be susceptible to compromise, leading to a breach of the Adviser's network. The Adviser's systems or facilities



may be susceptible to employee error or malfeasance, government surveillance, or other security threats. Such systems might in some circumstances be subject to cybersecurity incidents or similar events that could potentially result in damage or interruption to these systems, unauthorized access to sensitive transactional and personal information, intentional misappropriation, corruption or destruction of data, or operational disruption. Cybersecurity incidents could potentially occur, and might in some circumstances result in the failure to maintain the security, confidentiality or privacy of sensitive data. Cybersecurity risks can disrupt the ability to engage in transactional business, cause direct financial loss and affect the value of assets in which clients invest, harm the Adviser's reputation, lead to violations of applicable laws, result in ongoing prevention, risk management and compliance costs, cause personally identifiable information of the investors of the Mount Kellett Funds to be lost or improperly accessed, used or disclosed, and otherwise affect business and financial performance.

#### *Assumption of Catastrophe Risk*

The Mount Kellett Funds are subject to the risk of loss arising from direct or indirect exposure to various catastrophic events, including the following: hurricanes, earthquakes and other natural disasters (which may be caused, or enhanced in frequency and severity, by climate change factors); war, terrorism and other armed conflicts; cyberterrorism; major or prolonged power outages or network interruptions; and public health crises, including infectious disease outbreaks, epidemics and pandemics. To the extent that any such event occurs and has a material effect on global financial markets or specific markets or issuers in which the Mount Kellett Funds invest (or has a material negative impact on the operations of the Adviser or the Adviser's or the Mount Kellett Funds' service providers), the risks of loss can be substantial and could have a material adverse effect on the Mount Kellett Funds and investors' investments therein.

#### *Novel Coronavirus Pandemic, Public Health Emergency and Global Economic Impacts*

The outbreak of COVID-19 caused a worldwide public health emergency, with a substantial number of hospitalizations and deaths, and significantly adversely impacted global commercial activity and contributed to both volatility and material declines in equity and debt markets. Many national, state and local governments reacted by instituting mandatory or voluntary quarantines, travel prohibitions and restrictions, closures or reductions of offices, businesses, schools, retail stores, restaurants and other public venues and/or cancellations, suspensions and/or postponements of certain events and activities, including certain non-essential government and regulatory activities. Businesses also implemented their own precautionary measures, such as voluntary closures, temporary or permanent reductions in work force, remote working arrangements and emergency contingency plans. Such measures, as well as the general uncertainty surrounding the dangers, duration and impact of COVID-19, created and may continue to create significant disruption to supply chains and economic activity, impacting consumer confidence and contributing to significant market losses.

As a result of the market conditions described above, the cost and availability of credit has been, and may continue to be, adversely affected by illiquid credit markets and wider credit spreads. Concern about the stability of the markets and the strength of counterparties has led many lenders and institutional investors to reduce, and in some cases cease, lending to borrowers.

While the impact of COVID-19 on the world economy has been mitigated, in the event of a resurgence of COVID-19, the Mount Kellett Funds and their investments could be materially adversely impacted. A resurgence of COVID-19 may materially and adversely impact the value, performance and liquidity of the Mount Kellett Funds or their portfolio investments, the Mount Kellett Funds' ability to manage and divest investments and the Mount Kellett Funds' ability to achieve its investment objectives, all of which could result in significant losses to the Mount Kellett Funds and their investors.

#### *Climate Change-Related Risks*

The environmental effects of climate change, including rising temperatures, extreme weather, fires, flooding, erratic weather fluctuations, agricultural failures and displacement and destabilization of human populations, could have materially adverse effects on the securities held by the Mount Kellett Funds. The Adviser believes that such risks may increase over time, although the time period over which these consequences might unfold is difficult to predict.

In addition to the physical, economic and geo-political risks associated with climate change, there are transition risks. The willingness of certain governments, industries and businesses, especially those that profit from, or have a reliance on, fossil fuels, to adapt to climate change or transition to sustainable practices may also adversely affect the performance of the Mount Kellett Funds.

Regulatory changes and divestment movements tied to concerns about climate change could adversely affect the value of certain industries whose activities or products are seen as accelerating climate change, or ill-positioned in light of the economic and social demands imposed by climate change. In recent years, certain investors have incorporated the business risks of climate change and the adequacy of companies' responses to climate change as part of their investment theses. These shifts in investing priorities may result in adverse effects on the trading price of securities if investors determine that the company has not made sufficient progress on climate change and environmental sustainability matters whether or not climate change proves to be as severe as predicted or preventable.

The values of securities whose performance is linked to assets and revenue streams that are exposed to climate change risk, including futures and swaps that directly or indirectly reference fuel, energy, transportation and agricultural prices, real estate property values, mortgages, taxes, insurance rates and proceeds of tourism, may readily be affected by both long-term, systemic effects of climate change, as well as severe environmental events whose occurrence is inherently unpredictable.

## **ITEM 9**

### **DISCIPLINARY INFORMATION**

Except as described below, there are no legal or disciplinary events that are material to a client's or prospective client's evaluation of the Adviser's advisory business or the integrity of its management.

On July 12, 2018, without admitting or denying any findings in the order, Mount Kellett Capital Management LP ("Mount Kellett") consented to the entry of an order to cease and desist from committing or causing any future violations of Section 13(d) of the Exchange Act and Rule 13d-1 promulgated thereunder, and Section 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder. The SEC found that Mount Kellett was at least 45 days late in switching from filing a Schedule 13G as a passive investor in a portfolio company to filing a Schedule 13D as an active investor, pursuant to Section 13(d) of the Securities Exchange Act of 1934 and Rule 13d-1 thereunder. The SEC also found that Mount Kellett's then-employee, Norman M. K. Louie, who held a board seat on one of Mount Kellett's portfolio companies, provided a \$3,000,000 personal loan to the CEO of that portfolio company in October 2014 without disclosing the loan to anyone at Mount Kellett. According to the order, Mount Kellett failed to adopt and implement policies and procedures within the meaning of Section 206(4) and Rule 206(4)-7 to identify and address conflicts of interest more broadly and insufficient depth to capture and train employees to recognize violative conduct, such as the loan that Mr. Louie provided to the CEO of the portfolio company. As part of the settlement, Mount Kellett agreed to censure, to cease-and-desist, and to pay a civil monetary penalty of \$160,000. Such expense was borne solely by Mount Kellett, not any investors or clients.

## **ITEM 10**

### **OTHER FINANCIAL INDUSTRY ACTIVITIES AND AFFILIATIONS**

The Adviser and its management persons are not registered as broker-dealers and do not have any application pending to register with the SEC as a broker-dealer or registered representative of a broker-dealer.

The Adviser and its management persons are not registered as, and do not have any application to register as, a futures commission merchant, commodity pool operator, commodity trading advisor, or an associated person of the foregoing entities.

## **ITEM 11**

### **CODE OF ETHICS, PARTICIPATION IN CLIENT TRANSACTIONS AND PERSONAL TRADING**

The Adviser has adopted the Code of Ethics (the "Code of Ethics") and all other compliance policies and procedures, including, without limitation, those relating to participation in client transactions and personal trading of the Fortress Manager. The Fortress Manager is subject to the compliance policies and procedures of FIG LLC, which is a SEC registered investment adviser and subsidiary of Fortress Investment Group LLC ("Fortress"). FIG LLC is the parent entity of the Fortress Manager.

#### *Code of Ethics*

The Code of Ethics is available upon written request of current or prospective investors in the Mount Kellett Funds. The policies and procedures set forth in the Code of Ethics recognize that,

as an investment adviser, the Adviser is in a position of trust and confidence with respect to the Mount Kellett Funds and has a duty to place the interests of the Mount Kellett Funds before the interests of the Adviser. This duty includes an obligation to address or mitigate both conflicts of interest and the appearance of any conflicts of interest. However, Mount Kellett may have a conflict of interest in that it is the one identifying such conflicts.

The Code of Ethics also recognizes that as an investment adviser registered under the Investment Advisers Act of 1940 (as amended, the "Advisers Act"), the Adviser has a further obligation to comply with the provisions of the Advisers Act as well as the other U.S. federal securities laws.

The Code of Ethics also recognizes that as an investment adviser registered under the Advisers Act, Mount Kellett has a further obligation to comply with the provisions of the Advisers Act as well as the other U.S. federal securities laws. The Code of Ethics includes, among other things, requirements with respect to standards of conduct in dealings with various parties and regarding conflicts of interest with clients.

#### *Personal Trading*

Under the Code of Ethics, the Adviser's principal is generally not permitted to purchase or sell, directly or indirectly, any security that is currently held by the Mount Kellett Funds or that is, to his knowledge, being considered for purchase or sale by a client.

Other restrictions applicable to the personal trading of the Adviser's principal includes, for example, a 30-day holding period, a prohibition against trading securities listed on the combined Restricted Trading List of Fortress and the Adviser, a prohibition against short selling, and prohibitions against writing options or futures contracts.

In addition, the Code of Ethics requires, with limited exceptions, that all reportable personal securities transactions by the principal of the Adviser be pre-approved by an authorized member of the Legal and Compliance Department of Fortress, and, in some cases, by senior business personnel.

#### *Potential conflicts due to overlapping Mount Kellett Fund investments*

Where the different Mount Kellett Funds hold the same investment, the differing hold periods of such Mount Kellett Funds, as well as other factors applicable to the specific situation, may result in a determination to dispose of, or retain, all or a portion of such investment on behalf of a Mount Kellett Fund at different times as such investment or portion thereof is being disposed of, or retained, by other Mount Kellett Funds. In addition, particularly with respect to illiquid or private investments, conflicts of interest can arise when disposing of a particular investment which would be beneficial for one Mount Kellett Fund while retaining such investment would be beneficial for another Mount Kellett Fund. Moreover, the Adviser or the Adviser's principal may make investments or engage in other activities that express inconsistent views with respect to an investment, a particular security or relevant market conditions.

In addition, the Adviser expects to make other business decisions on behalf of certain of the Mount Kellett Funds relating to investments independently of the manner in which it approaches

a similar or even the same investment held by other of the Mount Kellett Funds. In some instances, the Adviser may choose to coordinate the activities of the Mount Kellett Funds (such as timing dispositions in an orderly way in order to avoid affecting the share price of an investment in an unduly volatile manner) with respect to investments held by more than one Mount Kellett Fund, when it would theoretically be possible for the Adviser to act unilaterally with respect to a particular Mount Kellett Fund's holdings in such investment. Such coordination could have the effect of lowering returns for a particular Mount Kellett Fund with respect to an investment relative to what might have been achieved absent such coordination.

Should a particular client make an investment in which other clients hold an interest, the investment by such client could be viewed, especially in hindsight, to have been made on a non-arm's length basis and could have an effect (either positive or negative) on the market price of the initial investment.

It is possible for a client to hold interests in an entity that are of a different class or type than the class or type of interest held by another client. For example, one client may hold securities in an entity and other clients may hold equity or debt of such entity that are senior or junior to the securities held by the first client, which could mean that all such clients will be entitled to different payment or other rights, or that in a workout or other distressed scenario the interests of one client might be adverse to those of other clients and one client might recover all or part of its investment while the other clients might not. Clients will not be required to take any action or refrain from taking any action to mitigate another client's losses in such a scenario, and Mount Kellett, along with the Fortress Manager, will make decisions on how to resolve such situations in its sole discretion. In all such situations above, Mount Kellett may have a conflict of interest.

## **ITEM 12**

### **BROKERAGE PRACTICES**

Given the current portfolio mix of the Mount Kellett Funds and the expiration of the investment periods of the Mount Kellett Funds, only a limited amount of trading activities by the Mount Kellett Funds (primarily in connection with the disposition of certain securities positions) is contemplated.

The Adviser has adopted the best execution, soft dollar and other policies and procedures applicable to brokerage activities that are currently adopted by Fortress, as described below.

#### *Factors Considered in Selecting or Recommending Broker-Dealers for Mount Kellett Fund Transactions*

The Adviser and the Fortress Manager have discretion in deciding which brokers and dealers a Mount Kellett Fund will use and in negotiating the rates of commissions a Mount Kellett Fund will pay. The Adviser and the Fortress Manager will sell securities directly from or to dealers acting as principal at prices that include mark-ups or mark-downs. In selecting brokers and dealers to effect portfolio transactions for the Mount Kellett Funds, the Adviser and the Fortress Manager seek to obtain best execution, taking into consideration the price of a security offered

by a broker-dealer, as well as the full range and quality of such broker-dealer's services, including, among other things and to the extent applicable, price, transaction costs, ability to effect transactions, reliability and financial responsibility, responsiveness to the Adviser and the Fortress Manager, access to company management, access to deal flow and precedent transactions, ability to provide financing commitments, the broker-dealer's provision or payment of the costs of research and other services or property that are of benefit to the applicable Mount Kellett Fund, the Adviser or the Fortress Manager and other factors that the Adviser and the Fortress Manager deem appropriate to consider under the circumstances. If the Adviser and the Fortress Manager decide, based on the factors set forth above, to execute over-the-counter ("OTC") transactions on an agency basis through Electronic Communications Networks ("ECNs"), they may also consider one or more of the following factors when choosing to use one ECN over another: the ease of use, the flexibility of the ECN compared to other ECNs, and the level of care and attention that will be given to smaller orders. The Adviser and the Fortress Manager do not in all cases solicit competitive bids and do not have an obligation to seek the lowest available commission cost. Accordingly, if the Adviser and the Fortress Manager determine that the amount of commissions charged by a broker-dealer is reasonable in relation to the value of the brokerage and products or services provided by such broker-dealer, the Mount Kellett Fund may pay commissions to such broker-dealer in an amount greater than the amount another broker-dealer might charge. In addition, in the ordinary course of business, the Adviser and the Fortress Manager may utilize broker-dealers that employ friends or family members of employees of the Adviser and/or the Fortress Manager, including individuals who have personal relationships with those who make investment decisions or execution decisions on behalf of the Mount Kellett Funds and may benefit, directly or indirectly, from the brokerage business of the Adviser and/or the Fortress Manager.

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

Generally, research services provided by broker-dealers may include, but may not be limited to, information on the economy, industries, groups of securities, individual companies, statistical information, accounting and tax law interpretations, political developments, legal developments affecting portfolio securities, technical market action, pricing and appraisal services, credit analysis, risk measurement analysis, performance analysis, and analysis of corporate responsibility issues. Such research services are received primarily in the form of written reports, telephone contacts, and personal meetings with security analysts. In addition, such research services may be provided in the form of access to various computer-generated data, and meetings arranged with corporate and industry spokespersons, economists, academics, and government representatives. Finally, brokerage services may include post-trade services or communication services related to executing, clearing and settlement of transactions.

In accordance with the Section 28(e) of the Exchange Act, the Adviser is permitted to pay higher commissions to broker-dealers than could have otherwise been negotiated in the market if it receives research or brokerage products or services from that broker-dealer if the Adviser determines, in good faith, that the commission paid is reasonable in relation to the value of the brokerage and research services provided. The Adviser may from time to time pay a broker-dealer commissions (or mark-ups or mark-downs with respect to certain types of riskless principal transactions) for effecting Mount Kellett Fund transactions in excess of that which

another broker-dealer might have charged for effecting the same transaction in recognition of the value of the research and brokerage services provided by the broker-dealer. The use of Mount Kellett Fund brokerage commissions (or mark-ups or mark-downs) to obtain research or other products or services is beneficial to the Adviser because it consequently does not have to produce or pay for the research, products or services. The Adviser may have an incentive to select or recommend a broker-dealer based on its interest or Fortress' interest in receiving the research or other products or services, rather than the Mount Kellett Funds' interest in receiving most favorable execution. The Adviser or Fortress may effect such transactions, and receive such research and brokerage services outside of the safe harbor provided by Section 28(e) of the Exchange Act.

Research and brokerage services obtained with "soft dollars" generated by one or more Mount Kellett Funds may be used by the Adviser to service one or more other Mount Kellett Funds, and there will be instances where the research and brokerage services obtained by the Adviser will not benefit a particular Mount Kellett Fund to the extent of the expense of such services for that Mount Kellett Fund.

At least annually, the Fortress Manager considers, among other things, the amount and nature of brokerage and products or services provided by broker-dealers, as well as the extent to which such services are relied upon. Broker-dealers sometimes suggest a level of business they would like to receive in return for the various products and services they provide. Actual brokerage business received by any broker-dealer may be less than the suggested allocation, but can exceed the suggested level, because total brokerage is allocated on the basis of all of the considerations described above. However, a broker-dealer is not excluded from receiving business from a client because it has not been identified as providing research or brokerage services.

#### *Directed Brokerage*

The Adviser and the Fortress Manager have discretion in deciding which broker-dealer the Mount Kellett Funds will use and in negotiating the rates of commissions that the Mount Kellett Funds will pay and may, under certain circumstances, permit the Mount Kellett Funds to direct brokerage.

#### *Liability of the Adviser for Certain Acts or Omissions, Including Trade Errors*

On occasion, trades may be executed on behalf of a Mount Kellett Fund that are inconsistent with the trading instructions of the Adviser and the Fortress Manager or are the result of some other error in the trading process. Such trades are known as "Trade Errors" and are deemed to have occurred when, as a result of such inconsistency or other error in the process: (i) the wrong investment is purchased or sold; (ii) the wrong quantity of an instrument is purchased or sold; (iii) a purchase is made instead of sale or sale is made instead of a purchase; (iv) there is a material misallocation of a trade to a Mount Kellett Fund or (v) an investment is purchased or sold in violation of regulatory or contractual obligations. Trade Errors do not include scenarios that do not result in a trade. Trade Errors frequently result in losses but may, occasionally, result in gains. The Adviser will endeavor to detect Trade Errors before settlement and correct and/or mitigate them in an expeditious manner. To the extent a Trade Error is caused by a third party,

such as a broker, the Adviser may seek to recover any losses associated with the Trade Error from such third party, but may choose not to do so in its discretion and the Adviser will not be liable for such losses. Similarly, if there is a material misallocation of a trade between Mount Kellett Funds, the Adviser will endeavor to remedy such misallocation, but may not ultimately be able to do so and the Adviser will not be liable for such losses. Unless a Trade Error has resulted from the willful misconduct, fraud, gross negligence or material breach of the applicable Fund Document of the Adviser, any losses will be borne by the Mount Kellett Fund(s) concerned. Any gains resulting from a Trade Error will be for the benefit of the Mount Kellett Fund(s) concerned. The Adviser will determine in its sole discretion whether any Trade Error has resulted from willful misconduct, fraud, gross negligence or material breach of the applicable Fund Document on its part. Investors should be aware that, in making such determinations, the Adviser will have a conflict of interest. Notwithstanding the foregoing, the Adviser's policies on Trade Errors set forth herein are subject in all instances to the terms and provisions of the applicable Fund Documents.

In addition, the Adviser will not generally be liable to any Mount Kellett Fund or investor in such Mount Kellett Fund for any of the acts or omissions of the Adviser in connection with a Mount Kellett Fund or any investment made or held by a Mount Kellett Fund unless such act or omission constituted gross negligence, fraud, willful misconduct or material breach of the applicable Fund Document. The foregoing should not be construed so as to provide for the exculpation of the Adviser (including liability under federal securities laws which, under certain circumstances, impose liability even on persons that act in good faith), to the extent that such liability may not be waived, modified or limited under applicable law, but will be construed so as to effectuate the foregoing to the fullest extent permitted by law.

## **ITEM 13**

### **REVIEW OF ACCOUNTS**

The Adviser's principal, together with senior investment professionals of the Fortress Manager, participate in the periodic reviews of the Mount Kellett Funds' portfolios. A review of a specific investment in a Mount Kellett Funds' portfolio may also be triggered by any unusual activity or special circumstances. The Adviser provides annual audited financial statements within 120 days of the applicable Mount Kellett Fund's fiscal year end (subject to reasonable delays in the event of the late receipt by the Adviser of any necessary financial information) and quarterly unaudited financial information to investors. Such annual audited financial statements are prepared by independent public accountants. Many of the investments held by the Mount Kellett Funds require regular asset management and oversight to ensure that business plans, which are determined at asset acquisition, are being realized. Such positions are monitored to identify variations from business plans and take appropriate measures as necessary.

The Adviser and the Fortress Manager, prepare periodic reports/letters to provide to its clients and/or the clients' underlying investors, detailing the performance and composition of such clients' investments.



## **ITEM 14**

### **CLIENT REFERRALS AND OTHER COMPENSATION**

The Adviser does not compensate any person for client referrals and does not receive economic benefits from non-clients for providing investment advice and other advisory services.

## **ITEM 15**

### **CUSTODY**

The Adviser is deemed to have custody of client funds and securities because it has the authority to obtain client funds or securities, for example, by deducting advisory fees from a client's account or otherwise withdrawing funds from a client's account. Account statements related to Mount Kellett Funds are sent by qualified custodians to the Adviser.

The Adviser is subject to Rule 206(4)-2 under the Advisers Act (the "Custody Rule"). However, the Adviser is deemed to have complied with certain requirements of the Custody Rule with respect to each Mount Kellett Fund because it complies with the provisions of the so-called "Pooled Vehicle Annual Audit Exception", which, among other things, requires that each Mount Kellett Fund be subject to audit at least annually by an independent public accountant that is registered with, and subject to regular inspection by, the Public Company Accounting Oversight Board, and requires that each Mount Kellett Fund distribute its audited financial statements to all investors within 120 days of the end of its fiscal year.

## **ITEM 16**

### **INVESTMENT DISCRETION**

As previously disclosed, the Adviser and the Fortress Manager share joint discretionary trading and investment authorization with respect to the Mount Kellett Funds, except, as previously disclosed to investors in the Mount Kellett Funds, with respect to several specific investments for which the Adviser has sole discretionary authority. Under the terms of the Strategic Alliance Transaction all such exercise of trading or investment authorization must be jointly performed by the Adviser and the Fortress Manager in accordance with the investment objectives and guidelines as set forth in the applicable Fund Documents.

## **ITEM 17**

### **VOTING CLIENT SECURITIES**

In compliance with Advisers Act Rule 206(4)-6, the Adviser has adopted proxy voting policies and procedures adopted by Fortress. The general policy adopted by the Adviser is to vote proxy proposals, as well as amendments, consents or resolutions relating to the securities held by the Mount Kellett Funds in a manner that serves the best interests of the Mount Kellett Funds. With respect to certain Mount Kellett Fund accounts and securities, the Adviser may retain the

services of a third-party proxy voting service. In such cases, the Adviser may rely upon the service to vote both domestic and global proxies for such Mount Kellett Fund accounts. For certain other Mount Kellett Fund accounts and securities, the Adviser and the Fortress Manager will jointly determine, in their sole discretion, how to vote the proxies and processes and vote the securities themselves. In determining how to vote such proxies, the Adviser and the Fortress Manager may take into account factors such as: (i) the impact on the value of the investments; (ii) the anticipated associated costs and benefits; (iii) the continued or increased availability of portfolio information; (iv) industry and business practices; and (v) the degree to which Mount Kellett Fund interests are aligned with those of an issuer's management. In some circumstances, the Adviser and the Fortress Manager will refrain from voting proxies where the Adviser and the Fortress Manager believe, among other reasons, that voting would be inappropriate, taking into consideration the cost of voting the proxy, the anticipated benefit to the Mount Kellett Funds, whether the Mount Kellett Funds continue to hold the securities on the voting date, or where the portfolio manager believes that resolution of the proxy is not relevant to the value of the investment. In those instances where the Mount Kellett Fund has reserved to itself the right to vote proxies, the Adviser will not participate in the voting of proxies. It is possible for conflicts of interest to arise in the context of the Adviser's proxy voting.

A copy of the Adviser's proxy voting policies and procedures can be obtained upon request.

## **ITEM 18**

### **FINANCIAL INFORMATION**

The Adviser is not required to include a balance sheet for its most recent fiscal year, is not aware of any financial condition reasonably likely to impair its ability to meet contractual commitments to clients, and has not been the subject of a bankruptcy petition at any time during the past ten years.