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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF UTAH  
Central Division**

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In re:

MOUNTAIN WEST VALVE, INC.

Debtor.

Bankruptcy No. 16-21396

Chapter 11

Honorable William T. Thurman

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**DEBTOR'S 2<sup>nd</sup> AMENDED SMALL BUSINESS DISCLOSURE STATEMENT  
DATED MARCH 28, 2017**

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**\*\*\* DISCLAIMER: THIS DISCLOSURE STATEMENT HAS NOT YET BEEN APPROVED BY THE BANKRUPTCY COURT, AND UNTIL IT IS, IT SHOULD NOT BE RELIED UPON [This paragraph will be removed from circulation copies once conditional or final approval is obtained] \*\*\***

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## **INTRODUCTION**

This is the disclosure statement (the "**Disclosure Statement**") in the small business Chapter 11 case of Mountain West Valve, Inc. (the "**Debtor**" or "**MWV**"). This Disclosure Statement contains information about the Debtor and describes the Debtor's Small Business Plan of Reorganization dated December 23, 2016 (the "**Plan**") filed by the Debtor on December 23, 2016. A full copy of the Plan is attached to this Disclosure Statement as **Exhibit "A"**. **The purpose of this Disclosure Statement is to provide information as may be necessary and appropriate to allow you to make an informed judgment about the Plan. You should read the Plan and this Disclosure Statement carefully and discuss them with your attorney. If you do not have an attorney, you may wish to consult one.**

The proposed distributions under the Plan are discussed at pages 5 through 9 of this Disclosure Statement. General Unsecured Creditors are classified in Class 4 and will receive a *pro rata* distribution of \$500 per month for 12 months commencing 48 months after the Effective Date. After all Administrative Claims and Priority Tax Claims have been paid in full, the Reorganized Debtor shall pay the Class 4 Claimants, their *pro rata* share from \$1,500 on a quarterly basis.

## **INCORPORATION OF THE PLAN**

This Disclosure Statement incorporates the terms of the Plan. The capitalized terms in this Disclosure Statement have the same meaning as set forth in the Plan. Where there is a discrepancy between the Plan and this Disclosure Statement, the Plan is the controlling document. Therefore, you are strongly encouraged to read the Plan as well as the Disclosure Statement. This Disclosure Statement describes the Plan, but it is the Plan itself that will, if confirmed, establish your rights.

## **BACKGROUND**

### **Description and History of the Debtor's Business**

The Debtor is a corporation organized under the laws of the State of Utah. Since 2011, the Debtor has been in the business of providing industrial valve repair, shutdown management, actuator service, pressure relieve valve, oxygen cleaning, and control instrumentation of equipment.

### **Insiders of the Debtor**

The insiders of the Debtor as defined in § 101(31) of the United States Bankruptcy Code (the "Code") are Ken Guest ("Guest"), the sole shareholder, and Jennifer Huebner ("Huebner"), who became the principal Officer after the petition date.

Christopher Guest, the son of the Ken Guest, is the sole owner of KC Equipment Leasing, LLC ("KCL"), an independent company which leases mills, latches, and vehicles to Debtor necessary for the performance of their jobs. The agreement between the parties is that the Debtor

will pay \$1,200.00 above the KCL monthly purchase costs for a monthly lease payment from Debtor to KCL of \$18,875.. In addition to making the equipment available to Debtor at below market rental rates, it ensures the availability of equipment necessary to optimize Debtor's revenue. Debtor's most recent market rate inquiry, conducted during March 2017, yielded monthly rental costs exceeding \$55,000 for the same number of trucks, trailers, and forklifts used in Debtor's daily operations. This results in a savings to Debtor of more than \$35,000 per month compared to market.

### **Management of the Debtor before and during the Bankruptcy**

During the two years prior to the date on which the bankruptcy petition was filed, the sole officer, director, manager, or other person in control of the Debtor was Guest. The principal Officer of the Debtor during the Debtor's Chapter 11 case has been Huebner.

After the Effective Date of the order confirming the Plan, (1) the sole shareholder and voting trustee of the Reorganized Debtor shall be Guest and the principal officer and manager ("**Post Confirmation Manager**") will be Huebner. The responsibilities and compensation of Huebner and Guest are described in page eight (8) sections one (1) and six (6) of this Disclosure Statement.

### **Events Leading to Chapter 11 Filing**

MWV was originally founded in 2011 in Riverton, Utah by 4 employees working out of Guest's garage. The last two years prior to the bankruptcy filing Guest had sole management responsibility for the business. MWV experienced business growth); however, the growth was primarily from clients with payment terms that were typically 60-90 days from completion of the job.

On April 19, 2012, MWV entered into a secured financing arrangement (the "ARFA") with Crestmark Commercial Capital Lending, LLC ("Crestmark") to facilitate the factoring of these longer term accounts receivable. The interest and fees provided by this facility create a borrowing cost of approximately 10%.

In 2014, to accommodate the growth in the fracking market, MWV opened up shops in two new locations – Elko, NV and Vernal, UT. Toward the middle to end of 2015 oil prices started falling. As a vendor to clients in this industry, this unforeseen market downturn resulted in revenue declines for Debtor as well.

In February 3, 2014, MWV entered into a working capital financing arrangement the proceeds of which were used to sustain day to day operations and fund pending and future jobs. The first such arrangement was with Direct Capital for \$100,000.00. The credit line required MWV to make future daily payments of \$538.91. In March 31, 2015, MWV entered into a working capital financing arrangement with Swift Financial Corporation ("Swift"), the proceeds of which were used to pay off Direct Capital and to sustain day to day operations and fund pending and future jobs. This arrangement was for \$300,000.00. The credit line required MWV to make future daily payments of \$1,848.75. In September 17, 2015, MWV entered into another

working capital financing arrangement with Swift Financial, the proceeds of which were to pay off the original working capital financing agreement and to continue funding day to day operations as well as pending and future jobs. This arrangement with Swift was for \$400,000.00. The credit lines required MWV to make future daily payments of \$2,431.67. In December 28, 2015, MWV entered into a working capital financing arrangement the proceeds of which were used to sustain day to day operations and fund current and future jobs. The arrangement was with Everest Business Funding (“Everest”) for \$90,000.00. The credit lines required MWV to make future daily payments of \$1,050.00.

The onerous daily payments to Swift and Everest created a substantial erosion of debtor’s profit margin over time and it became necessary to continually borrow more to meet the financing and operating requirements of the Debtor.

On February 12, 2016, the Internal Revenue Service placed a lien on Debtor’s bank account for failure to pay payroll taxes totaling \$65,978.65. On February 29, 2016, the Debtor filed this Chapter 11 case.

Since filing this Chapter 11 case, Debtor has streamlined their operating costs by closing their two satellite shops and now run all their operations from one centralized cost effective location. The annual reduction in employee payroll since these closures is 47.62%. This savings includes the addition of two full-time sales representatives which support the Debtors increased revenue projections. MWV has also reduced rental and utilities costs by 64.60%. They have also obtained affordable factoring terms for new accounts receivable. Cessation of the onerous lending terms on new accounts receivable has allowed Debtor to resume operating a profitable business. Debtor reported a loss for 2015 of \$181,460. The Plan provides for operating cash flow of \$591,633 over 60 months. Over a 75-month period the Plan pays \$568,727 to pre-petition creditors.

### **Significant Events during the Bankruptcy Case**

The Debtor attended the required Initial Debtor Interview with the United States Trustee and the Meeting of Creditors mandated by § 341.

On March 10, 2016 Debtor filed a Motion to Use Cash Collateral. On March 24, 2016, the Court entered an order granting Debtor temporary authorization to sell accounts and use collateral only to pay payroll obligations and payroll taxes until a further hearing was held. A further hearing was held on the Motion to Use Cash Collateral on April 1, 2016 where the court denied Debtor’s further use of cash collateral. On April 25, 2016 the Debtor filed a Motion to Incur Debt and renewed it’s Motion to Use Collateral. At a hearing held on April 28, 2016 the Court preliminarily granted Debtor’s Motion to Use Cash Collateral and Motion to Incur Debt. The approved financing fell through for the Debtor and Debtor sought and obtained a new lender. On June 21, 2016, Debtor filed another Motion to Incur Debt and Motion to Use Cash Collateral. Swift Financial objected to Debtor’s motions and at a hearing on July 13, 2016 the Court denied Debtor’s motions. On July 8, 2016 Debtor filed another Motion to Incur Debt and Motion to Use Cash Collateral. Debtor and Swift reached a settlement regarding Swift’s claim

and at a hearing held July 13, 2016 the Court granted Debtor's motions on a final basis. The material terms of the post-petition financing are below:

a. Amount. The maximum amount of funding under the DIP Factoring Agreement shall be equal to the amount of accounts receivable eligible for factoring. *See* DIP Factoring Agreement at § 2, §4(a) (defining "Account"), and §4(b) (defining "Acceptable Account").

b. Obligors. Debtor is the sole Borrower under the DIP Factoring Agreement. *See* DIP Factoring Agreement at Preamble and at §1.

c. Super-Priority and Secured Status. The amount borrowed is to be treated as a super priority claim secured by a first position lien against all property of Debtor's estate junior only to Crestmark with regard to pre-petition assets except (i) Avoidance Actions (except for solely the proceeds of Avoidance Actions brought pursuant to section 549 of the Bankruptcy Code to recover any post-Petition Date transfer of Collateral), and (ii) subject to a carve-out for (a) Bankruptcy Court and United States "Trustee fees, (b) all Court approved fees of the Debtor's professionals prior to a Termination Date, (c) up to \$30,000 of allowed fees of Debtor's professionals after the Termination Date and (d) cash in the amount of \$100,000, pursuant to Bankruptcy Code §§ 364(c) and 36(D) and (e) final payments due to Crestmark. Further, DIP Lender agrees to a carve out for Swift to retain its first position lien on all pre-petition assets in the event a settlement agreement is reached between Debtor and Swift and approved by the Bankruptcy Court that provides for such a condition.

d. Termination Date. The DIP Factoring Agreement shall continue in effect for a period of three (3) years unless terminated by either party in writing with 30 days' notice.

e. Purchase Price. DIP Lender shall pay 94% of the invoice face amount for all accounts purchased.

f. Expenses. In the event of a default under the DIP Financing Agreement, Debtor is obligated to pay all attorneys' fees and costs incurred by DIP Lender in the enforcement of its rights under the DIP Financing Agreement.

g. Events of Default. The following is a general summary of what constitutes an Event of Default under the DIP Factoring Agreement:

- (1) Failure to pay an indebtedness to DIP Lender when due.
- (2) Breach of any term, provision, covenant, warranty or representation under this Agreement or under any other agreement between Debtor and DIP Lender or any affiliate.
- (3) Insolvency of Debtor, inability to pay debts as they mature, or a general assignment is made for the benefit of creditors provided however, no action may be taken against MWV that would be a violation of the stay imposed by 11 U.S.C. section 362 without court approval.
- (4) Any levy of attachment, execution, tax assessment or similar process is issued against the Collateral and not released within 10 days thereof.
- (5) Any financial statement, profit and loss statement, borrowing certificate or schedule, or other statement furnished by Debtor to DIP Lender is false, incorrect or misleading in any material respect.

h. Debtor's sources of income are diversified between 80% mining contracts and 20% oil refinery contracts from nationally recognizable customers engaged in all facets of energy development beginning with the government regulated pressure testing required during the initial dig and through each stage until power plant energy production. Debtor's best projection of future operating income is \$591,633 over 60 months and if projections are not as anticipated would

reduce expenses commensurate with updated revenue projections.

On August 24, 2017, Debtor filed a Motion to approve the settlement reached with Swift (“Swift Settlement”). At a hearing held October 19, 2016 after no objections filed, the Court entered an order approving the Swift Settlement. The Swift Settlement shall be incorporated into this Plan and remain in full force and effect until full payment as provided therein. The significant terms of the Swift Settlement are showing below:

- a) MWV will pay \$435,000 to Swift as a full resolution of claims (“Swift Payment”),
- b) The Swift Payment shall be paid in monthly payments through a confirmed chapter 11 plan ending no more than seventy-five months after confirmation of a plan.
- c) Payments made in the first sixty months bear no additional interest; payments made after month 60 bear interest at the rate of 3% per annum.
- d) Debtor agrees any plan proposed will not include balloon payments.
- e) No payment shall be less than \$3,000
- f) In the event a Chapter 11 plan is not confirmed within 120 days of October 19, 2016, Debtor will be obligated to make a minimum adequate protection payment of \$5,000 per month to Swift.

## **SUMMARY OF THE PLAN OF REORGANIZATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS**

### **Purpose of the Plan of Reorganization**

As required by the Code, the Plan places claims and equity interests in various classes and describes the treatment each class will receive. The Plan also states whether each class of claims or equity interests is impaired or unimpaired. If the Plan is confirmed, creditor’s recovery will be limited to the amount provided by the Plan.

### **Unclassified Claims**

Certain types of claims are automatically entitled to specific treatment under the Code. They are not considered impaired, and holders of such claims do not vote on the Plan. They may, however, object if, in their view, their treatment under the Plan does not comply with that required by the Code. As such, the Debtor has *not* placed the following claims in any class:

#### **1. Administrative Expenses**

Administrative expenses are costs or expenses of administering the Debtor’s Chapter 11 case which are allowed under § 507(a)(2) of the Code. Administrative expenses also include the value of any goods sold to the Debtor in the ordinary course of business and received within 20 days before the date of the bankruptcy petition. The Code requires that all administrative expenses be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment.



The following chart lists the Debtor's estimated administrative expenses and their proposed treatment under the Plan:

<b>Type</b>	<b>Estimated \$ Amount Owed</b>	<b>Proposed Treatment</b>
Tax Obligations Arising After the Petition Date	31,419.77	Paid in full within 48 months of the Effective Date
The Value of Goods Received in the Ordinary Course of Business Within 20 Days Before the Petition Date	0.00	Paid in full on the Effective Date of the Plan or according to terms of the obligation, if later
Professional Fees, as approved by the Court	55,000.00	Paid in full on the Effective Date of the Plan or according to separate written agreement or according to court order if applicable
Office of the U.S. Trustee Fees	0.00	Paid in full no later than the Effective Date of the Plan
<b>TOTAL</b>	<b>\$86,419.77</b>	

**2. Priority Tax Claims**

Priority tax claims are unsecured income, employment, and other taxes described by § 507(a)(8) of the Code. Unless the holder of such a § 507(a)(8) priority tax claim agrees otherwise, each holder of a priority tax claim will be paid within five (5) years from the date of the order for relief (Petition Date)). Such Allowed Claims shall be paid after all Allowed Administrative Claims but before any Allowed General Unsecured Claims.

The following priority tax claims were filed in this case:

Creditor	Priority Amount
Utah State Tax Commission	\$10,774.83
Internal Revenue Service	\$119,659.39
Nevada Dept of Employment, Training & Rehabilitation	\$8,598.6
<b>Total</b>	<b>\$139,032.82</b>

**Classes of Claims and Equity Interests**

The following are the classes set forth in the Plan and the proposed treatment that they will receive under the Plan: (A list of all Claims is shown on **Exhibit 1** to the Plan).

**1. Classes of Secured Claims**

Allowed Secured Claims are claims secured by property of the Debtor's bankruptcy estate (or that are subject to setoff) to the extent allowed as secured claims under § 506 of the Code. If the value of the collateral or setoffs securing the creditor's claim is less than the amount of the creditor's allowed claim, the deficiency will be classified as a general unsecured claim.

The following chart lists all classes containing Debtor's secured prepetition claims and their proposed treatment under the Plan:

<b>Class</b>	<b>Impairment</b>	<b>Treatment</b>
Class 1 – \$9,627.70 Secured claim of Internal Revenue Service	Impaired	The Class 1 Creditor shall be paid \$9,627.70 over 60 months in minimum monthly payments no less than \$200.00 (3) The Debtor shall have the option to make monthly payments in excess of the amounts listed above without penalty.
Class 2 – \$457,234.09 Secured Claim of Swift Financial Corporation dba Swfit Capital	Impaired	The Class 2 Creditor shall be paid \$435,000 as follows: (1) \$37,000.00 will be paid prior to the Effective Date. (2) The balance of \$398,000.00 shall be paid within 75 months after the Effective Date in iminimum monthly payments of no less than \$3,000.00 per month. Payments made after month 60 will bear interest at 3% per annum. (3) The Debtor shall have the option to make monthly payments in excess of \$3,000.00 without penalty. (4) The creditor’s lien as it existed on the petition date and as provided in paragraph 8 of the Swift Settlement shall be retained as security for the payment or performance by the Debtor of all sums required to be paid under the Swift Settlement and the Plan.

**2. Classes of Priority Unsecured Claims**

Certain priority claims that are referred to in §§ 507(a)(1), (4), (5), (6), and (7) of the Code are required to be placed in classes. The Code requires that each holder of such a claim receive cash on the effective date of the Plan equal to the allowed amount of such claim. However, a class of holders of such claims may vote to accept different treatment.

The Debtor has no claims that fall into this class.

**3. Class of General Unsecured Claims**

General unsecured claims are not secured by property of the estate and are not entitled to priority under § 507(a) of the Code. The following chart identifies the Plan's proposed treatment of the Class 4 Claims:

<b>Class</b>	<b>Impairment</b>	<b>Treatment</b>
Class 3 – General Unsecured Creditors	Impaired	All unsecured claims allowed under § 502 of the Code will be satisfied by receiving a Pro Rata distribution of \$500 per month for 12 months commencing 48 months after the Effective Date. From time to time if the Debtor generates enough funds to pay creditors in Class 4 early, it may do so

<b>Class</b>	<b>Impairment</b>	<b>Treatment</b>
		without penalty. No interest shall be paid to creditors in this class. These claims will be discharged upon the distribution of their Pro Rata portion of \$6,000.

**4. Class of Equity Interest Holders**

Equity interest holders are parties who hold an ownership interest (i.e., equity interest) in the Debtor. In a corporation, entities holding preferred or common stock are equity interest holders.

The following chart sets forth the Plan's proposed treatment of the class of equity interest holders:

<b>Class</b>	<b>Impairment</b>	<b>Treatment</b>
Class 4 – Equity Security Holders	Impaired	On and as of the Effective Date, all of the Class 4 Interests of the Debtor shall be extinguished, cancelled and discharged. Jennifer Heubner, the principal Officer, shall contribute new capital in exchange for 100% Interest in the Reorganized Debtor.

**Means of Implementing the Plan**

**1. Source of Payments.**

Payments and distributions under the Plan will be funded by (1) the operations of the Reorganized Debtor and a capital contribution of \$30,000 from Heubner to be contributed prior to the Effective Date.

**2. Continued Operation of Business.**

Upon entry of the Confirmation Order, title in the Debtor's Assets, except as otherwise provided for in the Plan, will be transferred to the Reorganized Debtor. All liens of the Allowed Secured Creditors shall continue to attach to all assets of the estate

**3. Payment of Claims.**

Payment of Allowed Claims shall be made in order of priority required by the Bankruptcy Code from the Reorganized Debtor's net business income on a monthly basis and shall be paid by check and disbursed to creditors each calendar month by the 15th of each such month beginning with the calendar month following the Effective Date.

**4. Additional Financing**

The Reorganized Debtor may secure additional financing, secured or unsecured, for purposes of operation and performance under the Plan provided that any such financing shall not create liens with priority over liens held by holders of Allowed Claims in classes 1 through 4 absent the consent of the holders of such Allowed Claims.

#### **5. Management of Reorganized Debtor**

Guest will continue to be the sole shareholder and Huebner will serve as the President and sole operating Officer of the Reorganized Debtor with power to manage all of its day to day financial affairs and business operations. Guest's compensation of \$60,000 and Huebner's compensation of \$80,000 may be increased during the term of the Plan so long as it does not impair the Reorganized Debtor's ability to make the payments required under the Plan.

#### **Risk Factors**

The proposed Plan has the following risks: If the Debtor is unable to operate profitably creditors will not be paid. Impediments to profitability include general economic factors, terms of client payment, ability to find working capital, and non-payment of accounts receivable by customers.

#### **Executory Contracts and Unexpired Leases**

The Plan lists all executory contracts and unexpired leases that the Debtor will assume under the Plan. Assumption means that the Debtor has elected to continue to perform the obligations under such contracts and unexpired leases, and to cure defaults of the type that must be cured under the Code, if any. The Plan also describes how the Debtor will cure and compensate the other party to such contract or lease for any such defaults.

If you object to the assumption of your unexpired lease or executory contract, the proposed cure of any defaults, or the adequacy of assurance of performance, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan, unless the Court has set an earlier time.

All executory contracts and unexpired leases that are not listed as assumed will be rejected under the Plan. Consult your advisor or attorney for more specific information about particular contracts or leases.

If you object to the rejection of your contract or lease, you must file and serve your objection to the Plan within the deadline for objecting to the confirmation of the Plan.

#### **Tax Consequences of Plan**

Neither the Debtor nor its attorneys have obtained tax opinion and express no opinion as to the tax consequences to Creditors resulting from the Plan. Creditors are advised and encouraged to consult their own tax counsel to determine the tax consequences of the Plan.

## **CONFIRMATION**

### **Voting**

Each creditor with an impaired, allowed claim is entitled to vote. All classes are impaired and entitled to vote and have been provided with a ballot. A class of creditors will be deemed to have accepted the Plan if at least two-thirds in amount and more than one-half in number of the holders of Allowed Claims of the class (that actually vote) accept the Plan.

If an objection to your Claim is filed prior to Confirmation, then your Claim will no longer be an Allowed Claim and you will not have the right to vote. Nevertheless, under Bankruptcy Rule 3018, the Court, after notice and hearing, may temporarily allow your Claim in an amount which the Court deems proper for the purpose of accepting or rejecting the Plan. If an objection to your Claim has been filed and you desire that your Claim be temporarily allowed for purposes of voting, you must take appropriate steps to obtain such relief.

### **Ballots**

To be counted, each ballot must be completed and delivered to the Debtor's counsel. The instructions and deadlines for submitting ballots are contained in the Ballot and in the Order (1) Conditionally Approving Disclosure Statement, (2) Fixing Time for Filing Acceptances or Rejections of Plan, and (3) Fixing the Time for Filing Objections to the Disclosure Statement and to the Confirmation of the Plan and Notice of Confirmation Hearing (the "**Confirmation Hearing Notice**") which has been mailed to you with this Disclosure Statement.

### **Objections to the Plan**

You have the right to object to the Plan. The instructions and deadlines for filing an objection to confirmation of the Plan are set forth in the Confirmation Hearing Notice. Unless the Court determines otherwise, only those objections that are in writing and timely filed with the Court and served on Debtor's counsel may be considered by the Court on the Confirmation Hearing.

### **Disclaimer**

*The Court has conditionally approved this Disclosure Statement as containing adequate information to enable parties affected by the Plan to make an informed judgment about its terms. The Court has not yet determined whether the Plan meets the legal requirements for confirmation, and the fact that the Court has approved this Disclosure Statement does not constitute an endorsement of the Plan by the Court, or a recommendation that it be accepted. The Court's approval of this Disclosure Statement is subject to final approval at the hearing on confirmation of the Plan.*

### **Liquidation Analysis**

To confirm the Plan, the Court must find that all creditors and equity interest holders who do not accept the Plan will receive at least as much under the Plan as such claim and equity interest holders would receive in a chapter 7 liquidation. To the extent that a trustee in a chapter 7 liquidation would take the same actions to pursue the Avoidance Actions, the Debtor believes that this requirement has been met. A liquidation analysis is attached to this Disclosure Statement as **Exhibit “B”**.

### **Feasibility**

The Court must find that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtor or any successor to the Debtor, unless such liquidation or reorganization is proposed in the Plan.

#### **1. Ability to Initially Fund Plan**

The Debtor believes that the Debtor will have enough cash on hand on the Effective Date from the operation of it's business and new equity purchase to pay all the claims and expenses that are entitled to be paid on that date.

#### **2. Ability to Make Future Plan Payments and Operate without Further Reorganization**

The Debtor must also show that it will have enough cash over the life of the Plan to make the required Plan payments as shown in page five (5) section one (1), and page six (6) sections two (2), three (3), and four (4) above The Plan Proponent has provided projected financial information. Those projections are listed in **Exhibit “C”**.

*You should Consult with your Accountant or other Financial Advisor if you have any Questions Pertaining to these Projections.*

### **Projected Recovery of Avoidable Transfers**

The Debtor does not intend to pursue preference, fraudulent conveyance, or other avoidance actions at this time as it does not believe that any actions qualify under the Bankruptcy Code.

### **Claims Objections**

Except to the extent that a claim is already allowed pursuant to a final non-appealable order, the Debtor reserves the right to object to claims. Therefore, even if your claim is allowed for voting purposes, you may not be entitled to a distribution if an objection to your claim is later upheld. The procedures for resolving disputed claims are set forth in Article V of the Plan.

### **EFFECT OF CONFIRMATION OF PLAN**

### **Discharge of Debtor**

On the Effective Date of the Plan, the Debtor shall be discharged from any debt that arose before confirmation of the Plan, subject to the occurrence of the effective date, to the extent specified in § 1141(d)(1)(A) of the Code, except that the Debtor shall not be discharged of any debt (I) imposed by the Plan, (ii) of a kind specified in § 1141(d)(6)(A) if a timely complaint was filed in accordance with Rule 4007(c) of the Federal Rules of Bankruptcy Procedure, or (iii) of a kind specified in § 1141(d)(6)(B). After the effective date of the Plan your claims against the Debtor will be limited to the debts described in clauses (i) through (iii) of the preceding sentence.

If the creditor classes approve the Plan, confirmation will be governed by 11 U.S.C. § 1129(a). If one or more creditor class objects to the Plan, section 1129(a) does not apply and confirmation of the plan is governed by 11 U.S.C. § 1129(b), Section 1129(b) sets forth the circumstances in which a reorganization plan may be confirmed over the objection of a creditor class. Among the prerequisites to confirmation of a dissenting class contained in section 1129(b) is the requirement that the plan be “fair and equitable.” To meet the fair and equitable requirement, secured creditors must be paid the value of their underlying collateral, while unsecured creditors must be paid in full pursuant to 11 U.S.C. §1129(b)(2)(B). If the Plan does not provide this, the fair and equitable requirement can only be met if holders of a junior claim or interest will not receive or retain any property under the plan. This rule is commonly known as the “absolute priority rule”. An exception to the absolute priority rule is known as the “new value exception.” When recognized, the new value exception allows an equity holder to escape the absolute priority rule by allowing receipt or retention of an interest in the reorganized debtor in exchange for new capital contributions over the objections of a class of creditors (Bonner, 115 S. Ct. at 901 2 F.3d 899 (9th Cir. 1993). Courts have generally ruled that in order to qualify for the exception, the contribution of new value must be: (1) necessary to the reorganization; (2) fresh; (3) of reasonably equivalent value to the interest received or retained; and (4) of money or money’s worth. In this case Jennifer Huebner is contributing new value in the form of cash prior to the Effective Date to purchase new equity in the Reorganized Debtor.

### **Modification of Plan**

The Debtor may modify the Plan at any time before confirmation of the Plan; however, the Court may require a new disclosure statement and/or revoting on the Plan. The Debtor may also seek to modify the Plan at any time after confirmation only if (1) the Plan has not been substantially consummated *and* (2) the Court authorizes the proposed modifications after notice and a hearing.

### **Final Decree**

Once the estate has been fully administered, as provided in Rule 3022 of the Federal Rules of Bankruptcy Procedure, the Debtor, or such other party as the Court shall designate in the Plan Confirmation Order, shall file a motion with the Court to obtain a final decree to close the case. Alternatively, the Court may enter such a final decree on its own motion.  
Respectfully submitted March 28, 2017.

/s/

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Mountain West Valve, Inc.  
By: Ken Guest  
Its: Sole Shareholder

/s/

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Vannova Legal, PLLC  
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