

FORM D

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

1446363
OMB APPROVAL
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THOMSON REUTERS

FORM D

NOTICE OF SALE OF SECURITIES
PURSUANT TO REGULATION D,
SECTION 4(6), AND/OR
UNIFORM LIMITED OFFERING EXEMPTION

SEC USE ONLY
Prefix Serial
DATE RECEIVED

Name of Offering ( ) check if this is an amendment and name has changed, and indicate change.)

401k Plan QES Disclosure

Filing Under (Check box(es) that apply): [X] Rule 504 [ ] Rule 505 [X] Rule 506 [X] Section 4(6) [ ] ULOE

Type of Filing: [X] New Filing [ ] Amendment

A. BASIC IDENTIFICATION DATA

1. Enter the information requested about the issuer

Name of Issuer ( ) check if this is an amendment and name has changed, and indicate change.)

MESACO ENTERPRISES, INC.

Address of Executive Offices (Number and Street, City, State, Zip Code)

7512 Dunbridge Dr., Odessa, FL 33556

Telephone Number (Including Area Code)

(813) 920-8347

Address of Principal Business Operations (if different from Executive Offices) (Number and Street, City, State, Zip Code)

Telephone Number (Including Area Code)

Brief Description of Business

Real Estate Operating Company and a Discovery Point Child Development Center franchise.

SEC
Mail Processing
Section

Type of Business Organization

- [X] corporation [ ] limited partnership, already formed [ ] other (please specify):
[ ] business trust [ ] limited partnership, to be formed

SEP 23 2008

Actual or Estimated Date of Incorporation or Organization: Month Year [015] [018] [X] Actual [ ] Estimated

Jurisdiction of Incorporation or Organization: (Enter two-letter U.S. Postal Service abbreviation for State:
CN for Canada; FN for other foreign jurisdiction) FL

Washington, DC
100

GENERAL INSTRUCTIONS

Federal:

Who Must File: All issuers making an offering of securities on an exemption under Regulation D or Section 4(6), 17 CFR 230.501 et seq. or 15 U.S.C. 77d(6).

When To File: A notice must be filed no later than 15 days after the first sale of securities in the offering. A notice is deemed filed with the U.S. Securities and Exchange Commission (SEC) on the earlier of the date it is received by the SEC at the address given below or, if received at that address after the date on which it is due, on the date it was mailed by United States registered or certified mail to that address.

Where To File: U.S. Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

Copies Required: Five (5) copies of this notice must be filed with the SEC, one of which must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

Information Required: A new filing must contain all information requested. Amendments need only report the name of the issuer and offering, any changes thereto, the information requested in Part C, and any material changes from the information previously supplied in Parts A and B. Part E and the Appendix need not be filed with the SEC.

Filing Fee: There is no federal filing fee.

State:

This notice shall be used to indicate reliance on the Uniform Limited Offering Exemption (ULOE) for sales of securities in those states that have adopted ULOE and that have adopted this form. Issuers relying on ULOE must file a separate notice with the Securities Administrator in each state where sales are to be, or have been made. If a state requires the payment of a fee as a precondition to the claim for the exemption, a fee in the proper amount shall accompany this form. This notice shall be filed in the appropriate states in accordance with state law. The Appendix to the notice constitutes a part of this notice and must be completed.

ATTENTION

Failure to file notice in the appropriate states will not result in a loss of the federal exemption. Conversely, failure to file the appropriate federal notice will not result in a loss of an available state exemption unless such exemption is predicated on the filing of a federal notice.

**A. BASIC IDENTIFICATION DATA**

2. Enter the information requested for the following:

- Each promoter of the issuer, if the issuer has been organized within the past five years;
- Each beneficial owner having the power to vote or dispose, or direct the vote or disposition of, 10% or more of a class of equity securities of the issuer.
- Each executive officer and director of corporate issuers and of corporate general and managing partners of partnership issuers; and
- Each general and managing partner of partnership issuers.

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Full Name (Last name first, if individual)

Mesa, Roman

Business or Residence Address (Number and Street, City, State, Zip Code)

7512 Dunbridge Dr., Odessa, FL 33556

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Full Name (Last name first, if individual)

Mesa, Carmen R.

Business or Residence Address (Number and Street, City, State, Zip Code)

7512 Dunbridge Dr., Odessa, FL 33556

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Check Box(es) that Apply:  Promoter  Beneficial Owner  Executive Officer  Director  General and/or Managing Partner

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

(Use blank sheet, or copy and use additional copies of this sheet, as necessary)

**B. INFORMATION ABOUT OFFERING**

1. Has the issuer sold, or does the issuer intend to sell, to non-accredited investors in this offering? .....  Yes  No  
 Answer also in Appendix, Column 2, if filing under ULOE.
2. What is the minimum investment that will be accepted from any individual? ..... \$ 10.00
3. Does the offering permit joint ownership of a single unit? .....  Yes  No
4. Enter the information requested for each person who has been or will be paid or given, directly or indirectly, any commission or similar remuneration for solicitation of purchasers in connection with sales of securities in the offering. If a person to be listed is an associated person or agent of a broker or dealer registered with the SEC and/or with a state or states, list the name of the broker or dealer. If more than five (5) persons to be listed are associated persons of such a broker or dealer, you may set forth the information for that broker or dealer only.

Full Name (Last name first, if individual)

**NO BROKER/DEALER WAS USED IN CONNECTION WITH THE ISSUANCE OF THE SECURITIES REPORTED HEREIN**

Business or Residence Address (Number and Street, City, State, Zip Code)

**NO COMMISSIONS WERE PAID IN CONNECTION WITH THE ISSUANCE OF THE SECURITIES REPORTED HEREIN**

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) .....  All States

<input type="checkbox"/> AL	<input type="checkbox"/> AK	<input type="checkbox"/> AZ	<input type="checkbox"/> AR	<input type="checkbox"/> CA	<input type="checkbox"/> CO	<input type="checkbox"/> CT	<input type="checkbox"/> DE	<input type="checkbox"/> DC	<input type="checkbox"/> FL	<input type="checkbox"/> GA	<input type="checkbox"/> HI	<input type="checkbox"/> ID
<input type="checkbox"/> IL	<input type="checkbox"/> IN	<input type="checkbox"/> IA	<input type="checkbox"/> KS	<input type="checkbox"/> KY	<input type="checkbox"/> LA	<input type="checkbox"/> ME	<input type="checkbox"/> MD	<input type="checkbox"/> MA	<input type="checkbox"/> MI	<input type="checkbox"/> MN	<input type="checkbox"/> MS	<input type="checkbox"/> MO
<input type="checkbox"/> MT	<input type="checkbox"/> NE	<input type="checkbox"/> NV	<input type="checkbox"/> NH	<input type="checkbox"/> NJ	<input type="checkbox"/> NM	<input type="checkbox"/> NY	<input type="checkbox"/> NC	<input type="checkbox"/> ND	<input type="checkbox"/> OH	<input type="checkbox"/> OK	<input type="checkbox"/> OR	<input type="checkbox"/> PA
<input type="checkbox"/> RI	<input type="checkbox"/> SC	<input type="checkbox"/> SD	<input type="checkbox"/> TN	<input type="checkbox"/> TX	<input type="checkbox"/> UT	<input type="checkbox"/> VT	<input type="checkbox"/> VA	<input type="checkbox"/> WA	<input type="checkbox"/> WV	<input type="checkbox"/> WI	<input type="checkbox"/> WY	<input type="checkbox"/> PR

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) .....  All States

<input type="checkbox"/> AL	<input type="checkbox"/> AK	<input type="checkbox"/> AZ	<input type="checkbox"/> AR	<input type="checkbox"/> CA	<input type="checkbox"/> CO	<input type="checkbox"/> CT	<input type="checkbox"/> DE	<input type="checkbox"/> DC	<input type="checkbox"/> FL	<input type="checkbox"/> GA	<input type="checkbox"/> HI	<input type="checkbox"/> ID
<input type="checkbox"/> IL	<input type="checkbox"/> IN	<input type="checkbox"/> IA	<input type="checkbox"/> KS	<input type="checkbox"/> KY	<input type="checkbox"/> LA	<input type="checkbox"/> ME	<input type="checkbox"/> MD	<input type="checkbox"/> MA	<input type="checkbox"/> MI	<input type="checkbox"/> MN	<input type="checkbox"/> MS	<input type="checkbox"/> MO
<input type="checkbox"/> MT	<input type="checkbox"/> NE	<input type="checkbox"/> NV	<input type="checkbox"/> NH	<input type="checkbox"/> NJ	<input type="checkbox"/> NM	<input type="checkbox"/> NY	<input type="checkbox"/> NC	<input type="checkbox"/> ND	<input type="checkbox"/> OH	<input type="checkbox"/> OK	<input type="checkbox"/> OR	<input type="checkbox"/> PA
<input type="checkbox"/> RI	<input type="checkbox"/> SC	<input type="checkbox"/> SD	<input type="checkbox"/> TN	<input type="checkbox"/> TX	<input type="checkbox"/> UT	<input type="checkbox"/> VT	<input type="checkbox"/> VA	<input type="checkbox"/> WA	<input type="checkbox"/> WV	<input type="checkbox"/> WI	<input type="checkbox"/> WY	<input type="checkbox"/> PR

Full Name (Last name first, if individual)

Business or Residence Address (Number and Street, City, State, Zip Code)

Name of Associated Broker or Dealer

States in Which Person Listed Has Solicited or Intends to Solicit Purchasers

(Check "All States" or check individual States) .....  All States

<input type="checkbox"/> AL	<input type="checkbox"/> AK	<input type="checkbox"/> AZ	<input type="checkbox"/> AR	<input type="checkbox"/> CA	<input type="checkbox"/> CO	<input type="checkbox"/> CT	<input type="checkbox"/> DE	<input type="checkbox"/> DC	<input type="checkbox"/> FL	<input type="checkbox"/> GA	<input type="checkbox"/> HI	<input type="checkbox"/> ID
<input type="checkbox"/> IL	<input type="checkbox"/> IN	<input type="checkbox"/> IA	<input type="checkbox"/> KS	<input type="checkbox"/> KY	<input type="checkbox"/> LA	<input type="checkbox"/> ME	<input type="checkbox"/> MD	<input type="checkbox"/> MA	<input type="checkbox"/> MI	<input type="checkbox"/> MN	<input type="checkbox"/> MS	<input type="checkbox"/> MO
<input type="checkbox"/> MT	<input type="checkbox"/> NE	<input type="checkbox"/> NV	<input type="checkbox"/> NH	<input type="checkbox"/> NJ	<input type="checkbox"/> NM	<input type="checkbox"/> NY	<input type="checkbox"/> NC	<input type="checkbox"/> ND	<input type="checkbox"/> OH	<input type="checkbox"/> OK	<input type="checkbox"/> OR	<input type="checkbox"/> PA
<input type="checkbox"/> RI	<input type="checkbox"/> SC	<input type="checkbox"/> SD	<input type="checkbox"/> TN	<input type="checkbox"/> TX	<input type="checkbox"/> UT	<input type="checkbox"/> VT	<input type="checkbox"/> VA	<input type="checkbox"/> WA	<input type="checkbox"/> WV	<input type="checkbox"/> WI	<input type="checkbox"/> WY	<input type="checkbox"/> PR

(Use blank sheet, or copy and use additional copies of this sheet, as necessary.)

**C. OFFERING PRICE, NUMBER OF INVESTORS, EXPENSES AND USE OF PROCEEDS**

1. Enter the aggregate offering price of securities included in this offering and the total amount already sold. Enter "0" if the answer is "none" or "zero." If the transaction is an exchange offering, check this box  and indicate in the columns below the amounts of the securities offered for exchange and already exchanged.

Type of Security	Aggregate Offering Price	Amount Already Sold
Debt .....	\$ 0.00	\$ 0.00
Equity .....	\$ 268,060.00	\$ 268,060.00
	<input checked="" type="checkbox"/> Common <input type="checkbox"/> Preferred	
Convertible Securities (including warrants) .....	\$ 0.00	\$ 0.00
Partnership Interests .....	\$ 0.00	\$ 0.00
Other (Specify _____) .....	\$ 0.00	\$ 0.00
<b>Total</b> .....	<b>\$ 268,060.00</b>	<b>\$ 268,060.00</b>

Answer also in Appendix, Column 3, if filing under ULOE.

2. Enter the number of accredited and non-accredited investors who have purchased securities in this offering and the aggregate dollar amounts of their purchases. For offerings under Rule 504, indicate the number of persons who have purchased securities and the aggregate dollar amount of their purchases on the total lines. Enter "0" if answer is "none" or "zero."

	Number Investors	Aggregate Dollar Amount of Purchases
Accredited Investors .....	2	\$ 268,060.00
Non-accredited Investors .....	0	\$ 0.00
<b>Total (for filings under Rule 504 only)</b> .....		<b>\$ _____</b>

Answer also in Appendix, Column 4, if filing under ULOE.

3. If this filing is for an offering under Rule 504 or 505, enter the information requested for all securities sold by the issuer, to date, in offerings of the types indicated, in the twelve (12) months prior to the first sale of securities in this offering. Classify securities by type listed in Part C — Question 1.

Type of Offering	Type of Security	Dollar Amount Sold
Rule 505 .....	0	\$ 0.00
Regulation A .....	0	\$ 0.00
Rule 504 .....	0	\$ 0.00
<b>Total</b> .....		<b>\$ 0.00</b>

4 a. Furnish a statement of all expenses in connection with the issuance and distribution of the securities in this offering. Exclude amounts relating solely to organization expenses of the insurer. The information may be given as subject to future contingencies. If the amount of an expenditure is not known, furnish an estimate and check the box to the left of the estimate.

Transfer Agent's Fees .....	<input type="checkbox"/>	\$ _____
Printing and Engraving Costs .....	<input type="checkbox"/>	\$ _____
Legal Fees .....	<input checked="" type="checkbox"/>	\$ 2,500.00
Accounting Fees .....	<input type="checkbox"/>	\$ _____
Engineering Fees .....	<input type="checkbox"/>	\$ _____
Sales Commissions (specify finders' fees separately) .....	<input type="checkbox"/>	\$ _____
Other Expenses (identify) _____ .....	<input type="checkbox"/>	\$ _____
<b>Total</b> .....	<input checked="" type="checkbox"/>	<b>\$ 2,500.00</b>

**C. OFFERING PRICE, NUMBER OF INVESTORS, EXPENSES AND USE OF PROCEEDS**

b. Enter the difference between the aggregate offering price given in response to Part C — Question 1 and total expenses furnished in response to Part C — Question 4.a. This difference is the "adjusted gross proceeds to the issuer." .....

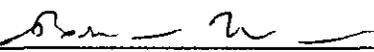
\$ 265,560.00

5. Indicate below the amount of the adjusted gross proceed to the issuer used or proposed to be used for each of the purposes shown. If the amount for any purpose is not known, furnish an estimate and check the box to the left of the estimate. The total of the payments listed must equal the adjusted gross proceeds to the issuer set forth in response to Part C — Question 4.b above.

	Payments to Officers, Directors, & Affiliates	Payments to Others
Salaries and fees .....	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
Purchase of real estate .....	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
Purchase, rental or leasing and installation of machinery and equipment .....	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
Construction or leasing of plant buildings and facilities .....	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
Acquisition of other businesses (including the value of securities involved in this offering that may be used in exchange for the assets or securities of another issuer pursuant to a merger) .....	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
Repayment of indebtedness .....	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
Working capital .....	<input type="checkbox"/> \$ _____	<input checked="" type="checkbox"/> \$ 265,560.00
Other (specify): _____	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
_____	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
_____	<input type="checkbox"/> \$ _____	<input type="checkbox"/> \$ _____
Column Totals .....	<input type="checkbox"/> \$ 0.00	<input type="checkbox"/> \$ 265,560.00
Total Payments Listed (column totals added) .....	<input type="checkbox"/> \$ 265,560.00	

**D. FEDERAL SIGNATURE**

The issuer has duly caused this notice to be signed by the undersigned duly authorized person. If this notice is filed under Rule 505, the following signature constitutes an undertaking by the issuer to furnish to the U.S. Securities and Exchange Commission, upon written request of its staff, the information furnished by the issuer to any non-accredited investor pursuant to paragraph (b)(2) of Rule 502.

Issuer (Print or Type) MESACO ENTERPRISES, INC.	Signature 	Date 9/5/08
Name of Signer (Print or Type) Roman Mesa	Title of Signer (Print or Type) President	

**ATTENTION**

Intentional misstatements or omissions of fact constitute federal criminal violations. (See 18 U.S.C. 1001.)

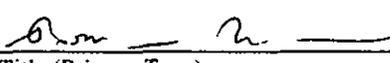
**E. STATE SIGNATURE**

1. Is any party described in 17 CFR 230.262 presently subject to any of the disqualification provisions of such rule? .....  Yes  No

See Appendix, Column 5, for state response.

2. The undersigned issuer hereby undertakes to furnish to any state administrator of any state in which this notice is filed a notice on Form D (17 CFR 239.500) at such times as required by state law.
3. The undersigned issuer hereby undertakes to furnish to the state administrators, upon written request, information furnished by the issuer to offerees.
4. The undersigned issuer represents that the issuer is familiar with the conditions that must be satisfied to be entitled to the Uniform limited Offering Exemption (ULOE) of the state in which this notice is filed and understands that the issuer claiming the availability of this exemption has the burden of establishing that these conditions have been satisfied.

The issuer has read this notification and knows the contents to be true and has duly caused this notice to be signed on its behalf by the undersigned duly authorized person.

Issuer (Print or Type) MESACO ENTERPRISES, INC.	Signature 	Date 9/5/08
Name (Print or Type) Roman Mesa	Title (Print or Type) President	

*Instruction:*

Print the name and title of the signing representative under his signature for the state portion of this form. One copy of every notice on Form D must be manually signed. Any copies not manually signed must be photocopies of the manually signed copy or bear typed or printed signatures.

**APPENDIX**

1	2		3	4				5	
	Intend to sell to non-accredited investors in State (Part B-Item 1)			Type of security and aggregate offering price offered in state (Part C-Item 1)	Type of investor and amount purchased in State (Part C-Item 2)				Disqualification under State ULOE (if yes, attach explanation of waiver granted) (Part E-Item 1)
State	Yes	No		Number of Accredited Investors	Amount	Number of Non-Accredited Investors	Amount	Yes	No
AL									
AK									
AZ									
AR									
CA									
CO									
CT									
DE									
DC									
FL		x	Common, \$10.00	2	\$268,060.00	0	\$0.00		x
GA									
HI									
ID									
IL									
IN									
IA									
KS									
KY									
LA									
ME									
MD									
MA									
MI									
MN									
MS									

**APPENDIX**

1 State	2 Intend to sell to non-accredited investors in State (Part B-Item 1)		3 Type of security and aggregate offering price offered in state (Part C-Item 1)	4 Type of investor and amount purchased in State (Part C-Item 2)				5 Disqualification under State ULOE (if yes, attach explanation of waiver granted) (Part E-Item 1)	
	Yes	No		Number of Accredited Investors	Amount	Number of Non-Accredited Investors	Amount	Yes	No
MO									
MT									
NE									
NV									
NH									
NJ									
NM									
NY									
NC									
ND									
OH									
OK									
OR									
PA									
RI									
SC									
SD									
TN									
TX									
UT									
VT									
VA									
WA									
WV									
WI									

**APPENDIX**

1	2		3	4				5	
	Intend to sell to non-accredited investors in State (Part B-Item 1)			Type of security and aggregate offering price offered in state (Part C-Item 1)	Type of investor and amount purchased in State (Part C-Item 2)				Disqualification under State ULOE (if yes, attach explanation of waiver granted) (Part E-Item 1)
State	Yes	No		Number of Accredited Investors	Amount	Number of Non-Accredited Investors	Amount	Yes	No
WY									
PR									

September 5, 2008

U.S. Securities and Exchange Commission  
450 Fifth Street, N.W.  
Washington D.C. 20549

Re: MESACO ENTERPRISES, INC. Federal Securities Exemption

To Whom It May Concern:

The purpose of this letter is to provide additional details to the Securities and Exchange Commission ("Commission") requested on Form D. The issuer in this transaction, MESACO ENTERPRISES, INC. (hereinafter referred to as Corporation"), is a small business enterprise and sold corporate securities in the form of common stock equity, to raise "seed capital." All the securities sold in this transaction were sold to accredited investors, who are corporate Board of Directors ("Board") and officers (hereinafter referred to as "accredited investors").

The offer and sale of securities in this transaction was exempt under Florida State Law, Florida State Law, Title XXXIII Chapters 517.051 and 517.061, Exempt Transactions and Exempt Securities. The applicable provision is self-executing and requires no additional state filings to be completed on behalf of the Corporation.

The following is a detailed explanation of the offer and sale of the Corporation's securities. First, the Corporation operates its business as a C Corporation. The Corporation owns and operates a Real Estate Operating Company and a Discovery Point Child Development Center franchise. On May 7, 2008, the Corporation adopted a 401(k) Profit Sharing Plan ("Plan"). The Plan is a qualified standardized prototype that is a traditional profit sharing plan with individual account Plans. All investments in this Plan are participant directed/controlled and not Trustee directed/controlled. The Plan Trustee established a master brokerage account with individual participant directed sub-accounts in the name of each employee seeking to exercise the rights, benefits, and features of the Plan.

The Plan has a provision that allows employees, who may not yet qualify to participate in the Plan, the right to make rollover contributions. A rollover contribution is the distribution of assets from one qualified retirement account to another qualified retirement account i.e. 401(k)s, IRAs, 403(b)s, 457s, etc. Under this provision, if an

employee, who is not yet qualified to participate in the Plan, wants to rollover contributions to the Corporation's Plan, the employee may do so and then invest freely under the provisions of the Plan. Under ERISA and the Internal Revenue Code ("IRC"), the securities sold by an employer to a Plan are known as Qualified Employer Securities (hereinafter referred to as "QES"). Additionally, under IRC § 401(a)(4) and its corresponding regulations (1) the rights, benefits and features of a Plan cannot discriminate in favor of highly compensated employees; and (2) the option to purchase QES when offered by the employer is a right under the Plan. Under IRC § 401(a), a profit sharing plan created by an employer must be offered for the exclusive benefit of his employees otherwise the plan can be disqualified. IRC § 3121(d) defines an employee as any officer of a corporation and any individual under the usual common law.

On May 5, 2008, the Board resolved to raise seed capital by selling securities to the Plan. Specifically, the Board sought to sell QES to the Plan so accredited investors with assets in their Plan accounts could purchase QES in the Corporation. Roman Mesa, the President of the Corporation, owns RDC Angels, Inc., a Florida entity. The Corporation and RDC Angels, Inc. are related businesses and constitute a controlled group. If two or more businesses are part of the controlled group, then for most Plan purposes, all employees of those businesses are deemed to be employed by a single employer. If one related employer sponsors a Plan, it is as though the sponsor employed all employees of the related employers. Between the Corporation and the employees employed by RDC Angels, Inc., the Corporation, for Plan purposes is deemed to employ thirty (30) employees, including its officers. However, only Roman Mesa, the Corporation's President, and Carmen R. Mesa, the Corporation's Treasurer, are accredited investors as defined by Federal securities laws. The remaining twenty-eight (28) employees are non-accredited investors as defined by Federal securities laws. In an effort to comply with IRC § 401(a)(4), the Corporation disclosed in writing to all employees the Board of Director's offer to sell QES to the Plan ("QES Disclosure"). Along with the QES Disclosure, the Corporation provided each and every employee with copies of the Corporation's Plan documents. See Exhibit A: QES Disclosure to Employees; Exhibit B: Plan Documents. The QES Disclosure to Employees contains a document called Notice to Employer. The Notice to Employer informs the Corporation as to whether the employee intends to purchase QES via the Plan. Each employee completed a Notice to Employer and declined to purchase QES via the Plan. If an employee had opted to purchase QES via the Plan, the Corporation would have provided the employee corporate financial statements including cash flows and/or a private placement memorandum. Though the Corporation did not discourage any employee from exercising their right to purchase QES under IRC § 401(a)(4), the Corporation did not want any employee to purchase QES because the securities are a risky investment.

No employee other than Roman Mesa purchased Corporation QES using Plan assets contained in his individual account Plan. All other employees acknowledged their right to purchase QES using Plan assets, but declined to do so. Therefore, it was not necessary to prepare financial statements or a private placement memorandum for the employees. Again, at no time was it ever the Board's intention to raise seed capital via the offer/sale of securities to the general public or its non-highly compensated employees,

but to allow the Corporation's President, Roman Mesa, to purchase QES using his Plan assets.

The accompanying Form D discloses the information for the actual sale of securities, all of which were purchased by Roman Mesa via his individual account Plan.

If you have further questions regarding this transaction please contact Emily Sharp Rains, the Corporation Tax/ERISA attorney who assisted us with this transaction at (206) 283-5593.

Sincerely,



Roman Mesa, President  
MESACO ENTERPRISES, INC.

Cc: Emily Sharp Rains, Esq.; Sara D. Longley, Esq.

**Exhibit A:**  
**QES Disclosure to Employees**

**Receipt Confirming Delivery of Plan Documents to Employees**

I, \_\_\_\_\_ (employee name), agree that I have received the following documents from my employer, RDC Angels, Inc. dba Discovery Point #47, a member of the MESACO ENTERPRISES, INC. ("Corporation") controlled group; the purposes of the documents are to disclose the Rights, Benefits, and Features of the Corporation's 401(k) Plan:

- Summary Plan Description and Supporting Amendments \_\_\_\_\_
- Common Questions About Your 401(k) Plan \_\_\_\_\_
- Funding Policy Statement \_\_\_\_\_
- Salary Deferral Agreement (aka) Enrollment Form \_\_\_\_\_
- Designation of Beneficiary \_\_\_\_\_

Furthermore, my employer and the Corporation have strongly advised me to carefully and thoroughly read all the above documents and sign and date those documents requiring execution.

Dated: this \_\_\_\_\_ day of \_\_\_\_\_ 200\_\_.

Return to: MESACO ENTERPRISES, INC.  
7512 Dunbridge Drive  
Odessa, FL 33556

\_\_\_\_\_  
Employee Name (Print)

Telephone: (813) 920-8347

\_\_\_\_\_  
Employee Signature

**MESACO ENTERPRISES, INC. Qualified Employers Securities  
Transaction Disclosure Document**

The purpose of this document is to disclose to all MESACO ENTERPRISES, INC. (hereinafter referred to as "Corporation") employees their right under the MESACO ENTERPRISES, INC. 401(k) (hereinafter referred to as the "Plan") to purchase qualified employer securities (hereinafter referred to as "QES") when offered by the Corporation to the Plan. Under Internal Revenue Code ("IRC") § 401(a)(4), a Plan cannot offer benefits that favor highly compensated employees of the employer. Under IRC Reg. § 1.401(a)(4)-4(e)(3)(iii)(A), the right to a particular form of investment under a Plan, including for example, a particular class or type of employer securities is a right, benefit, and feature of the Plan and must be offered in a nondiscriminatory manner. Therefore, all rights, benefits, and features provided by the terms of a Plan must be made available to all employees in a nondiscriminatory manner. If and only if a Plan's rights, benefits, and features are made currently available and effectively available to all employees, as defined under the IRC Regulations, then and only then are the Plan's rights, benefits and features treated as provided to employees in a nondiscriminatory manner.

The Plan is intended to be a § 404(c) plan and relieve Plan fiduciaries of liability. A description of the Plan investment options and contact information for the Plan investment managers shall be provided to you in a separate written document. Please refer to your Plan documents for restrictions on investment selections, transfers, and an explanation of fees and expenses that may be charged in connection with investment transactions. Hereafter, all QES offers to the Plan, now and in the future, shall be disclosed to employees in writing.

The Corporation, pursuant to a Board of Director's resolution dated May 5, 2008, resolved to offer employees QES via the Corporation Plan. The Board resolution allows both highly compensated employees ("HCEs") and non-highly compensated employees ("non-HCEs") to purchase QES from the Corporation for a limited time only, specifically from May 5, 2008 to SEPTEMBER 1, 2008 (hereinafter referred to as "Limited QES Period"). The purpose of the stock offering was to raise capital to grow and build the Corporation. By offering QES to the HCEs, the Corporation operators hoped to provide incentives to HCEs to work toward making the Corporation a successful business enterprise. On May 30, 2008, the Corporation's President purchased QES using assets contained in his individual Plan account. Any employee with assets in the Plan via participation contributions, rollover contributions, or otherwise, may use such assets to exercise their right under the Plan to purchase QES when offered by the Corporation. The Limited QES Period is calculated to allow ample time to all employees seeking to exercise their right to purchase QES from the Corporation, an opportunity to inform the Corporation of their intent to purchase QES, review materials provided by the Corporation containing Corporation information regarding the risks associated with purchasing QES (typically a private placement memorandum), and purchase the QES. Neither the Corporation nor any third-party will charge commission in connection with the purchase of QES by any HCE or non-HCE. All HCEs who purchase QES pursuant to

the above documented resolution are accredited investors as defined by Federal Securities laws.

Any and all Corporation employees, regardless of their level of participation in the Plan, may exercise their right to purchase QES via the Plan so long as the employee has assets in their individual account plan or deposits rollover assets into their individual account plan sufficient to purchase QES. An employee may deposit assets into their individual account plan by executing a rollover contribution. A rollover contribution is accomplished when an employee possesses assets in another qualified account (i.e. former employer's 401(k), 403(b), 457, Traditional IRA, not the Corporation's Plan) and requests the assets to be rolled over into the Corporation's Plan. Under the 401(k) Plan Adoption Agreement Section 3 Part G question 1, "an employee may make rollover contributions to the Plan pursuant to Section 3.03 of the [Basic Plan] Document." Therefore, employees who are not currently qualified to participate (i.e. make pretax contributions from compensation, receive matching funds and/or profit sharing) in the Plan may exercise the right to purchase QES by making a rollover contribution into their individual account plan. Employees who presently possess assets in their individual account plans may use such assets to purchase QES via the Plan.

Under IRC § 401(a), a profit sharing plan created by an employer must be offered for the exclusive benefit of his employees, otherwise the plan can be disqualified. IRC § 3121(d) defines an employee as any officer of a corporation and any individual under the usual common law. If two businesses are a part of a controlled group, then for most Plan purposes, all employees of those businesses are deemed to be employed by a single employer (hereinafter referred to as "related employers"). If one related employer sponsors a Plan, it is as though the sponsor employed all employees of the related employers. One type of controlled group occurs when two or more businesses (or corporations) have five or fewer persons that possess both a controlling interest and effective control in the related businesses (or corporations).

A controlling interest is established when five or fewer persons possess at least eighty percent (80%) of either the voting power or the value of stock of the corporation. *See* IRC 1563(a)(2)(A). Effective control is established when the same five or fewer persons with a controlling interest also own more than fifty percent (50%) of the voting power or value of stock of the group of corporations. *See* IRC 1563(a)(1)(A). However, when calculating the 50% for effective control, each person's lowest equity interest, among the group of corporations, is treated as the person's actual equity interest in each of the corporations in the potential group. Then, each person's lowest equity interest is added to calculate the 50% minimum. When the same persons who possess a controlling interest in each corporation also possess effective control in the same corporations then such corporations constitute a controlled group. Under IRC § 1563(f)(3)(B), when stock is owned by two or more persons such stock shall be considered as owned by the persons whose ownership of such stock results in the corporation being a component member of a controlled group. In the case of spouses, under IRC § 1563(e)(5), an individual shall be considered as owning stock in a corporation owned, directly or indirectly, by or for his spouse.

The Corporation and RDC Angels, Inc. organized in Florida State, (hereinafter referred to as "RDC"), together constitute a controlled group. Roman Mesa and Carmen R. Mesa, the Directors of the Corporation (hereinafter "controlling shareholders") own eighty percent (80%) or more, directly and/or indirectly, of both the Corporation and RDC. Specifically, the controlling shareholders own one hundred percent (100%) stock in the Corporation and one hundred (100%) stock in RDC. The lowest percentage of equity owned by the controlling shareholders in the potential controlled group businesses is one hundred percent (100%). Since one hundred percent (100%) is more than fifty percent (50%) the controlling shareholders also possess effective control in each of the potential controlled group businesses. Because both the Corporation and RDC constitute a controlled group, the Plan offered by the Corporation to its employees must also be offered to the RDC employees.

Under ERISA § 407(d)(1) and 407(d)(5), QES is defined as a security issued by an employer of employees covered by the Plan, or by an affiliate of such employer, where the term security means stock. ERISA § 408(e), entitled Exemptions from Prohibited Transaction, states that the acquisition of QES by a Plan shall not constitute a prohibited transaction or be subject to the 10 percent limitation with respect to the acquisition and holding of QES by the Plan if such sale (1) is for adequate consideration, (2) no commission is charged with respect to the sale of QES to the Plan, and (3) the Plan is an eligible individual account Plan (also known as an "EIAP"). *See also* ERISA §§ 406 [Prohibited Transactions], 407 [10 Percent Limitation with Respect to Acquisition and Holding of Employer Securities and Employer Real Property by Certain Plans]. **IMPORTANT:** All QES offered/sold will be issued from the Corporation Treasury and not transferred from a party in interest to the Plan.

The acquisition of QES by the Plan is not a prohibited transaction because the three above-mentioned conditions required by ERISA 408(e) are present. First, when QES is not traded on a national securities exchange registered under the Securities Exchange Act of 1934 (Exchange Act) § 6, adequate consideration for the offer/sale of such QES is achieved if (1) the Plan pays no more than fair market value and (2) the fair market value was determined in good faith by the fiduciary. *Howard v. Shay*, 100 F.3d 1484, 1488 (9<sup>th</sup> Cir. 1996). Proposed Regulation, 53 Fed at 17634, defines fair market value "as the price at which an asset would change hands between a willing buyer and willing seller when the former is not under any compulsion to buy and the latter is not under any compulsion to sell, and both parties are able, as well as willing, to trade and are well-informed about the asset and the market for that asset." Such a good-faith valuation has been made for the QES in this offering.

Second, no commission is charged with respect to the sale of the QES in this offering.

Third, an EIAP is a 401(k) or other Profit-Sharing Plan and such Plan explicitly provides for the acquisition of QES. *See* ERISA § 407(d)(3)(B). The Corporation has adopted a 401(k) Profit-Sharing Plan that explicitly allows employees with assets in their eligible individual accounts to acquire QES. Under the 401(k) Plan Adoption

Agreement, a Plan participant is responsible for directing the investment of their Plan assets pursuant to Section 7.22(B) of the 401(k) Basic Plan Document and may direct the Plan assets contained in the participant's individual account Plan to be invested in QES as defined by ERISA § 407(d)(5). See Section Seven Part A-B, respectively. Pursuant to the Corporation's 401(k) Funding Policy Rights Statement Paragraph 4: Pass Through Voting Rights, an employee has the right to vote all QES and all other securities with accompanying voting rights owned by the employee's individual account Plan. Therefore, employees, not the Plan trustee(s), shall be permitted to vote the QES held in their individual account Plan.

Moreover, the Plan does not contain a blackout period. A blackout period is a temporary suspension, limitation, or restriction on the ability of Participants/Beneficiaries under the Plan to direct or diversify assets credited to their individual account Plan. See ERISA § 101(i) & DOL Reg. §2520.101-3(d)(1)(i). Nor does the Plan contain any permanent restrictions that suspend, limit, or restrict an employee from exercising their rights under the Plan. However, employees with QES in their eligible individual account plans may not resell the QES because the QES is a restricted security. **THIS MEANS THAT THE RESALE OF QES IS PROHIBITED BY BOTH FEDERAL AND STATE LAW.** This restraint on the alienation of QES does not constitute a restriction on the employee's rights under the Plan but is instead a restraint imposed by the law and is applicable to those employees who seek to offer/resell their QES and thereby violate governing Securities laws and applicable Anti-Fraud provisions. See Securities Act, Exchange Act, ERISA § 101(i)(7)(B)(i) and DOL Reg. § 2520.101-3(d)(1)(ii)(A).

Under the Exchange Act § 12, all securities must be registered unless the security is exempt. Additionally, the Securities Act § 13, requires all issuers of a security to comply with the reporting and disclosure requirements contained in this Section, unless the security to be issued is exempt. Exchange Act § 3(12)(A)(iv) describes one type of exempt security as any security issued in connection with a qualified plan. A qualified plan is defined as a profit sharing plan that meets the requirements under IRC § 401. See Exchange Act § 3(12)(C)(i). Under the Securities Act Regulation E § 701, securities offered and/or sold pursuant to certain compensatory benefits plans are exempt from registration required by Securities Act § 5, but are not exempt from the anti-fraud or civil liabilities provisions of Federal Securities laws. The purpose of this rule is to provide an exemption from the registration requirements of the Securities Act for securities issued in compensatory circumstances. To qualify for an exemption from registration and the corresponding reporting requirements required by the Securities Act, the Exchange Act, and the relevant Regulations, the Corporation has narrowly tailored the rights of employees to purchase QES using assets contained in their eligible individual account Plan. Specifically, the Corporation is seeking an exemption from registration and reporting under Securities Act Regulation E § 701, or if such exemption is deemed not available, under Regulation D §§ 504, 506, and/or 4(6).

Therefore, the Corporation will not register either the Plan or the QES issued to the Plan. The Plan offered by the Corporation is a qualified Plan as defined by IRC § 401 and is offered to all Corporation employees for compensatory purposes only.

Participation in the Plan is not mandatory and all employees exercising their rights, benefits, and features of the Plan are not required to purchase QES in the Corporation when offered. Though the Corporation will not register either the Plan or any purchases of QES by employees via their individual account Plans, the Corporation is still required to ensure that no manipulative or deceptive devices are used when disclosing the risks associated with purchasing QES. *See* Exchange Act § 10b-5. Therefore, all employee(s) who notify the Corporation in writing using the attached form (*See* Notice to Employer) shall be provided a private placement memorandum that fully discloses all the risks associated with purchasing the Corporation's QES.

**IMPORTANT DISCLOSURES:** Again, the QES is a **restricted security** as defined by Federal Securities laws. Since QES is a restricted security, any employee who possesses QES in their eligible individual account Plan is prohibited from reselling the QES. In the event an employee with QES in their eligible individual account Plan wants to divest the QES from their account, the employee may request to have the Corporation redeem the QES for adequate consideration. The employee may reinvest their individual account Plan assets in another investment opportunity or have the assets distributed subject to the Corporation's 401(k) Plan Adoption Agreement. Though the employee may request the Corporation to redeem the QES from their individual account Plan, the Corporation is not obligated to redeem the QES when asked to do so. If the Corporation agrees to honor the employee's request to redeem their QES in their individual account Plan, all expenses incurred by the Corporation to accomplish the employee's request to redeem the QES may be allocated to the employee's eligible individual account Plan.

Moreover, though the Plan specifically states that an employee with Plan assets in an eligible individual account Plan has the right to direct the investment of their Plan assets, including requesting a distribution, the Corporation is not required to distribute cash but may instead make an in-kind distribution. Under IRC Treas. Reg. 1.401(a)(4)-(e)(1), upon a holder's request for distribution, if the holder possesses QES in their individual account Plan, the Corporation may make an alternative distribution, specifically, it may distribute QES to the employee instead of cash. If the Corporation does not have sufficient liquidity ("cash") to pay cash to satisfy a request for distribution, the Corporation is likely to exercise their right under IRC Treas. Reg. 1.401(a)(4)-(e)(1) and the corresponding Plan provision to make an in-kind distribution of QES to satisfy the employee's request for distribution. This could be an undesired result for an employee seeking to cash-out their interest in the Corporation's QES, especially if they are seeking to use the proceeds to invest in another investment option.

Lastly, the Corporation's QES is highly speculative, illiquid, and the purchaser bears a significant risk of losing their initial investment in the Corporation and/or not receiving a return on their investment. Employees should carefully consider the terms explained above and the risks associated with purchasing the Corporation's QES prior to investing any of their Plan assets in QES. Please further note, that no government regulator is recommending these securities. It is a crime for anyone to tell you differently. Investment in a small business is usually very risky. No employee should invest any funds to purchase QES unless he/she can afford to lose the entire investment.

QES should only be purchased after exercising extreme caution and obtaining the Corporation's private placement memorandum, financial statements and any and all other documents that fairly demonstrate the Corporation's financial position, cash flows, and operations including any potential or current legal liabilities.

## **II. Corporation and Risks**

The Corporation was incorporated in the State of Florida in May 2008. The Corporation owns and operates a Real Estate Operating Company and a Discovery Point Child Development Center franchise (the "Business"). The Corporation seeks capital to start and operate the Business. The Corporation's President has no management experience managing a Real Estate Operating Company and a Discovery Point Child Development Center franchise. If the Corporation's management fails to properly manage the cash flow and operations of the Business and/or earn sufficient regular income, the Corporation is not likely to survive. By not likely to survive, we mean to describe an instance whereby the Corporation can no longer support itself in the marketplace and therefore management opts to liquidate and dissolve the Corporation. The Corporation needs to continue generating enough revenue to pay off any debts, whether present or future, operational expenses, and accumulate cash. The success of a small business is unpredictable and consequently a high risk investment option.

The Corporation has authorized one million (1,000,000) shares of common stock. The Corporation will make available no more than thirty-five thousand (35,000) shares of QES to employees who wish to purchase QES using assets contained in their individual account Plans. The Corporation will use its best efforts and act in good faith to ensure that all documents provided to employees seeking to purchase QES via the Plan comply with governing disclosure requirements under ERISA, IRC, and Federal and State Securities laws, including Anti-Fraud provision. Only employees who provide the Corporation with a completed "Notice to Employer: Notice to the Corporation of Employee's Intent to Purchase QES" will receive additional materials, including the Corporation's financial information, risks associated with purchasing the Corporation QES, and any other information necessary to ensure employees who intend to purchase QES are sufficiently informed before using the assets in their individual account Plans to purchase QES.

It is the responsibility of every employee to thoroughly and carefully read all documents provided by the MESACO ENTERPRISES, INC. 401(k) Plan, including but not limited to: the Summary Plan Description, Funding Policy Statement, Enrollment Form, Designation of Beneficiary, Distribution Notice, and Automatic Rollover Notice. The information contained in the documents above shall supersede all information deemed contrary in this document, if any. **THE SOLE PURPOSE OF THIS DOCUMENT IS TO PROVIDE ALL EMPLOYEES WITH NOTICE OF THEIR RIGHT TO PURCHASE QES WHEN MADE AVAILABLE BY THE CORPORATION TO THE PLAN. THIS DOCUMENT SHOULD NOT BE CONSTRUED AS A SOLICITATION TO SELL QES TO EMPLOYEES.** Lastly, we strongly advise you to seek independent and competent legal counsel to further inform you of your

rights and the associated risks associated with the purchase of QES as well as all other disclosures regarding the rights, benefits, and features under the Corporation 401(k) Plan.

By signing this document you agree that you understand that this document is not a written solicitation by the Corporation to offer/sell QES to you as a Plan Participant or otherwise and is instead proffered only to provide you notice of your right to purchase QES pursuant the nondiscrimination rules of the Internal Revenue Code.

Date this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Print Employee Name

\_\_\_\_\_  
Employee Signature

**NOTICE TO EMPLOYER**

**Notice to the Corporation of Employees Intent to Purchase QES via the Plan**

I, \_\_\_\_\_, will rollover qualified contribution monies to the Corporation's 401(k) Plan so I can exercise my right to purchase QES in the Corporation. The purpose of this notice is to inform the Corporation's management of my intention to participate in the acquisition of QES so the Corporation can prepare a private placement memorandum and/or deliver detailed corporate financial statements, including cash flows and other necessary information required to make an informed decision.

Date this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Employee Signature

**Notice to Corporation that Employee Declines to Purchase QES via the Plan**

I, \_\_\_\_\_, do not wish to rollover qualified contribution monies to the Corporation's 401(k) Plan or use assets in my eligible individual account Plan to purchase QES in the Corporation. I understand that I may not get another opportunity to purchase QES in the Corporation due to the high costs associated with this type of transaction.

Date this \_\_\_\_ day of \_\_\_\_\_, 200\_\_.

\_\_\_\_\_  
Employee Signature

**Exhibit B:  
Plan Documents**

**MESACO ENTERPRISES, INC. 401(K) PLAN  
SUMMARY PLAN DESCRIPTION**

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## MESACO ENTERPRISES, INC. 401(K) PLAN

### SUMMARY PLAN DESCRIPTION

#### INTRODUCTION TO YOUR PLAN

##### **What kind of Plan is this?**

Mesaco Enterprises, Inc. 401(k) Plan ("Plan") has been adopted to provide you with the opportunity to save for retirement on a tax-advantaged basis. This Plan is a type of qualified retirement plan commonly referred to as a 401(k) Plan. As a participant under the Plan, you may elect to contribute a portion of your compensation to the Plan. In addition, your Employer may make contributions to the Plan on your behalf.

##### **What information does this Summary provide?**

This Summary Plan Description ("SPD") contains information regarding when you may become eligible to participate in the Plan, your Plan benefits, your distribution options, and many other features of the Plan. You should take the time to read this SPD to get a better understanding of your rights and obligations in the Plan.

In this summary, your Employer has addressed the most common questions you may have regarding the Plan. If this SPD does not answer all of your questions, please contact the Administrator or other plan representative. The Administrator is responsible for responding to questions and making determinations related to the administration, interpretation, and application of the Plan. The name and address of the Administrator can be found at the end of this SPD in the Article entitled "General Information About the Plan."

This SPD describes the Plan's benefits and obligations as contained in the legal Plan document, which governs the operation of the Plan. The Plan document is written in much more technical and precise language and is designed to comply with applicable legal requirements. If the non-technical language in this SPD and the technical, legal language of the Plan document conflict, the Plan document always governs. If you wish to receive a copy of the legal Plan document, please contact the Administrator.

The Plan and your rights under the Plan are subject to federal laws, such as the Employee Retirement Income Security Act (ERISA) and the Internal Revenue Code, as well as some state laws. The provisions of the Plan are subject to revision due to a change in laws or due to pronouncements by the Internal Revenue Service (IRS) or Department of Labor (DOL). Your Employer may also amend or terminate this Plan. If the provisions of the Plan that are described in this SPD change, your Employer will notify you.

**Types of Contributions.** The following types of contributions may be made under this plan:

- employee salary deferrals
- employee rollover contributions
- employer matching contributions
- employer profit sharing contributions

#### ARTICLE I PARTICIPATION IN THE PLAN

##### **How do I participate in the Plan?**

Provided you are not an Excluded Employee, you may begin participating under the Plan once you have satisfied the eligibility requirements and reached your "Entry Date." The following describes the eligibility requirements and Entry Dates that apply. You should contact the Administrator if you have questions about the timing of your Plan participation.

##### **Salary Deferrals and Rollover Contributions**

**Excluded Employees.** If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled to participate in the Plan for purposes of salary deferrals and rollover contributions. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining
- certain nonresident aliens who have no earned income from sources within the United States
- leased employees

**Eligibility Conditions.** You will be eligible to participate for purposes of salary deferrals and rollover contributions when you have satisfied the following eligibility condition(s). However, you will actually enter the Plan once you reach the Entry Date as described below.

- attainment of age 21.
- completion of one (1) Year of Service.

**Entry Date.** For purposes of salary deferrals and rollover contributions, your Entry Date will be the first day of the Plan Year quarter coinciding with or next following the date you satisfy the eligibility requirements.

#### **Matching Contributions**

**Excluded Employees.** If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled to participate in the Plan for purposes of matching contributions. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining
- certain nonresident aliens who have no earned income from sources within the United States
- leased employees

**Eligibility Conditions.** You will be eligible to participate for purposes of matching contributions when you have satisfied the following eligibility condition(s). However, you will actually enter the Plan once you reach the Entry Date as described below.

- attainment of age 21.
- completion of one (1) Year of Service.

**Entry Date.** For purposes of matching contributions, your Entry Date will be the first day of the Plan Year quarter coinciding with or next following the date you satisfy the eligibility requirements.

#### **Profit Sharing Contributions**

**Excluded Employees.** If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled to participate in the Plan for purposes of profit sharing contributions. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining
- certain nonresident aliens who have no earned income from sources within the United States
- leased employees

**Eligibility Conditions.** You will be eligible to participate for purposes of profit sharing contributions when you have satisfied the following eligibility condition(s). However, you will actually enter the Plan once you reach the Entry Date as described below.

- attainment of age 21.
- completion of one (1) Year of Service.

**Entry Date.** For purposes of profit sharing contributions, your Entry Date will be the first day of the Plan Year quarter coinciding with or next following the date you satisfy the eligibility requirements.

#### **How is my service determined for purposes of Plan eligibility?**

**Year of Service.** You will have completed a Year of Service if, at the end of your first twelve months of employment with the Employer, you have been credited with at least 1,000 Hours of Service. If you have not been credited with 1,000 Hours of Service by the end of your first twelve months of employment, you will have completed a Year of Service at the end of any following Plan Year during which you were credited with 1,000 Hours of Service.

**Hour of Service.** You will be credited with your actual Hours of Service for:

- (a) each hour for which you are directly or indirectly compensated by the Employer for the performance of duties during the Plan Year;

- (b) each hour for which you are directly or indirectly compensated by the Employer for reasons other than the performance of duties (such as vacation, holidays, sickness, disability, lay-off, military duty, jury duty or leave of absence during the Plan Year); and
- (c) each hour for back pay awarded or agreed to by the Employer.

You will not be credited for the same Hours of Service both under (a) or (b), as the case may be, and under (c).

#### **What service is counted for purposes of Plan eligibility?**

**Service with the Employer.** In determining whether you satisfy the minimum service requirements to participate under the Plan, all service you perform for the Employer will generally be counted. However there are some exceptions to this general rule.

**Break in Service rules.** If you terminate employment and are rehired, you may lose credit for prior service under the Plan's Break in Service rules.

For eligibility purposes, you will have a Break in Service if you complete less than 501 Hours of Service during the computation period used to determine whether you have a Year of Service. However, if you are absent from work for certain leaves of absence such as a maternity or paternity leave, you may be credited with enough Hours of Service to prevent a Break in Service.

**Five-year eligibility Break in Service rule.** The five-year Break in Service rule applies only to participants who had no vested interest in the Plan when employment had terminated. If you were not vested in any amounts when you terminated employment and you have five 1-Year Breaks in Service (as defined above), all the service you earned before the 5-year period no longer counts for eligibility purposes. Thus, if you were to return to employment, you would have to resatisfy any minimum service requirements under the Plan.

**Military Service.** If you are a veteran and are reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, your qualified military service may be considered service with the Employer. If you may be affected by this law, ask the Administrator for further details.

#### **What happens if I'm a participant, terminate employment and then I'm rehired?**

If you are no longer a participant because you terminated employment, and you are rehired, then you will be able to participate in the Plan on your date of rehire provided your prior service had not been disregarded under the Break in Service rules and you are otherwise eligible to participate in the Plan.

## **ARTICLE II EMPLOYEE CONTRIBUTIONS**

#### **What are salary deferrals and how do I contribute them to the Plan?**

**Salary Deferrals.** As a participant under the Plan, you may elect to reduce your compensation by a specific percentage or dollar amount and have that amount contributed to the Plan on a pre-tax basis as a salary deferral. Your taxable income is reduced by the deferral contribution so you pay less in federal income taxes (however, the amount you defer is still counted as compensation for purposes of Social Security taxes). Later, when the Plan distributes the deferrals and earnings, you will pay the taxes on those deferrals and the earnings. Therefore, federal income taxes on the deferral contributions and on the earnings are only postponed. Eventually, you will have to pay taxes on these amounts.

**Deferral procedure.** The amount you elect to defer will be deducted from your pay in accordance with a procedure established by the Administrator. The procedure will require that you enter into a salary deferral agreement after you satisfy the Plan's eligibility requirements. You may elect to defer a portion of your salary as of your Entry Date or on the first day of each plan year quarter. Such election will become effective as soon as administratively feasible after it is received by the Administrator. Your election will remain in effect until you modify or terminate it.

**Deferral modifications.** You are permitted to revoke your salary deferral election at any time during the Plan Year. You may make any other modification on the first day of any Plan Year quarter or in accordance with any other procedure that your Employer provides. Any modification will become effective as soon as administratively feasible after it is received by the Administrator.

**Deferral Limit.** As a participant, you may elect to defer up to 100% of your compensation each year instead of receiving that amount in cash. Your total deferrals in any taxable year may not exceed a dollar limit which is set by law. The limit for 2008 is \$15,500. After 2008, the dollar limit may increase for cost-of-living adjustments. See the paragraph below on Annual dollar limit.

**Catch-up contributions.** If you will attain age 50 before the end of a calendar year, then you may elect to defer additional amounts (called "catch-up contributions") to the plan as of the January 1st of that year. The additional amounts may be deferred regardless of any other limitations on the amount that you may defer to the plan. The maximum "catch-up contribution" that you can make in 2008 is \$5,000. After

2008, the maximum may increase for cost-of-living adjustments. Any "catch-up contributions" that you make will not be taken into account in determining any Employer matching contribution made to the Plan.

**Annual dollar limit.** You should also be aware that each separately stated annual dollar limit on the amount you may defer (the annual deferral limit and the "catch-up contribution" limit) is a separate aggregate limit that applies to all such similar salary deferral amounts and "catch-up contributions" you may make under this Plan and any other cash or deferred arrangements (including tax-sheltered 403(b) annuity contracts, simplified employee pensions or other 401(k) plans) in which you may be participating. Generally, if an annual dollar limit is exceeded, then the excess must be returned to you in order to avoid adverse tax consequences. For this reason, it is desirable to request in writing that any such excess salary deferral amounts and "catch-up contributions" be returned to you.

If you are in more than one plan, you must decide which plan or arrangement you would like to return the excess. If you decide that the excess should be distributed from this Plan, you must communicate this in writing to the Administrator no later than the March 1st following the close of the calendar year in which such excess deferrals were made. However, if the entire dollar limit is exceeded in this Plan or any other plan your Employer maintains, then you will be deemed to have notified the Administrator of the excess. The Administrator will then return the excess deferral and any earnings to you by April 15th.

**Allocation of deferrals.** The Administrator will allocate the amount you elect to defer to an account maintained on your behalf. You will always be 100% vested in this account (see the Article in this SPD entitled "Vesting"). This means that you will always be entitled to all amounts that you defer. This money will, however, be affected by any investment gains or losses. If there is an investment gain, then the balance in your account will increase. If there is an investment loss, then the balance in your account will decrease.

**Distribution of deferrals.** The rules regarding distributions of amounts attributable to your salary deferrals are explained later in this SPD. However, if you are a highly compensated employee (generally more than 5% owners or individuals receiving wages in excess of certain amounts established by law), a distribution of amounts attributable to your salary deferrals or certain excess contributions may be required to comply with the law. The Administrator will notify you when a distribution is required.

#### **What are rollover contributions?**

**Rollover contributions.** At the discretion of the Administrator, if you are a Participant who is currently employed or an Eligible Employee, you may be permitted to deposit into the Plan distributions you have received from other plans and certain IRAs. Such a deposit is called a "rollover" and may result in tax savings to you. You may ask the administrator or trustee of the other plan or IRA to directly transfer (a "direct rollover") to this Plan all or a portion of any amount that you are entitled to receive as a distribution from such plan. Alternatively, if you received a distribution from a prior plan, you may elect to deposit any amount eligible to be rolled over within 60 days of your receipt of the distribution. You should consult qualified counsel to determine if a rollover is permitted and in your best interest.

**Rollover account.** Your rollover will be accounted for in a "rollover account." You will always be 100% vested in your "rollover account" (see the Article in this SPD entitled "Vesting"). This means that you will always be entitled to all amounts in your rollover account. Rollover contributions will be affected by any investment gains or losses.

**Withdrawal of rollover contributions.** You may withdraw the amounts in your "rollover account" at any time.

### **ARTICLE III EMPLOYER CONTRIBUTIONS**

In addition to any deferrals you elect to make, your Employer may make additional contributions to the Plan on your behalf. This Article describes Employer contributions that may be made to the Plan and how your share of the contribution is determined.

#### **What is the Employer matching contribution and how is it allocated?**

**Matching Contribution.** Your Employer may make a discretionary matching contribution equal to a uniform percentage of your salary deferrals. Each year, your Employer will determine the amount of the discretionary percentage.

However, any salary deferrals that are "catch-up contributions" will not be matched.

**Allocation conditions.** You will always share in the matching contribution regardless of the amount of service you complete during the Plan Year.

#### **What is the Employer profit sharing contribution and how is it allocated?**

**Profit sharing contribution.** Each year, your Employer may make a discretionary profit sharing contribution to the Plan. Your share of any contribution is determined below.

**Allocation conditions.** In order to share in the profit sharing contribution for a Plan Year, you must satisfy the following conditions:

- If you are employed on the last day of the Plan Year, you will share if you completed at least 500 Hours of Service during the Plan Year.

- If you terminate employment (not employed on the last day of the Plan Year), you will not receive a profit sharing contribution regardless of the amount of service you complete during the Plan Year.

**Your share of the contribution.** The profit sharing contribution will be "allocated" or divided among participants eligible to share in the contribution for the Plan Year.

Your share of the profit sharing contribution is determined by the following fraction:

$$\text{Profit Sharing Contribution} \quad \times \quad \frac{\text{Your Compensation}}{\text{Total Compensation of All Participants Eligible to Share}}$$

For example: Suppose the profit sharing contribution for the Plan Year is \$20,000. Employee A's compensation for the Plan Year is \$25,000. The total compensation of all participants eligible to share, including Employee A, is \$250,000. Employee A's share will be:

$$\$20,000 \quad \times \quad \frac{\$25,000}{\$250,000} \quad \text{or} \quad \$2,000$$

**How is my service determined for allocation purposes?**

**Hour of Service.** You will be credited with your actual Hours of Service for:

- each hour for which you are directly or indirectly compensated by the Employer for the performance of duties during the Plan Year;
- each hour for which you are directly or indirectly compensated by the Employer for reasons other than the performance of duties (such as vacation, holidays, sickness, disability, lay-off, military duty, jury duty or leave of absence during the Plan Year); and
- each hour for back pay awarded or agreed to by the Employer.

You will not be credited for the same Hours of Service both under (a) or (b), as the case may be, and under (c).

**What are forfeitures and how are they allocated?**

**Definition of forfeitures.** In order to reward employees who remain employed with the Employer for a long period of time, the law permits a "vesting schedule" to be applied to certain contributions that your Employer makes to the Plan. This means that you will not be "vested" in (entitled to) all of the contributions until you have been employed with the Employer for a specified period of time (see the Article entitled "Vesting"). If a participant terminates employment before being fully vested, then the non-vested portion of the terminated participant's account balance remains in the Plan and is called a forfeiture.

**Allocation of forfeitures.** Forfeitures will be allocated as follows:

- Forfeitures may first be used to pay any administrative expenses.
- Any remaining forfeitures will be used to reduce any Employer contribution.

**ARTICLE IV  
COMPENSATION AND ACCOUNT BALANCE**

**What compensation is used to determine my Plan benefits?**

**Definition of compensation.** For the purposes of the Plan, compensation has a special meaning. Compensation is generally defined as your total compensation that is subject to income tax and paid to you by your Employer during the Plan Year. Amounts paid to you after you terminate employment are generally not treated as compensation. If you are a self-employed individual, your compensation will be equal to your earned income. The following describes the adjustments to compensation that may apply for the different types of contributions provided under the Plan.

**Adjustments to compensation.** No adjustments will be made to compensation.

**Is there a limit on the amount of compensation which can be considered?**

The Plan, by law, cannot recognize annual compensation in excess of a certain dollar limit. The limit for the Plan Year beginning in 2008 is \$230,000. After 2008, the dollar limit may increase for cost-of-living adjustments.

**Is there a limit on how much can be contributed to my account each year?**

Generally, the law imposes a maximum limit on the amount of contributions (excluding catch-up contributions) that may be made to your account and any other amounts allocated to any of your accounts during the Plan Year, excluding earnings. Beginning in 2008, this total cannot exceed the lesser of \$46,000 or 100% of your annual compensation. After 2008, the dollar limit may increase for cost-of-living adjustments.

**How is the money in the Plan invested?**

The Trustee of the Plan has been designated to hold the assets of the Plan for the benefit of Plan participants and their beneficiaries in accordance with the terms of this Plan. The trust fund established by the Plan's Trustee will be the funding medium used for the accumulation of assets from which Plan benefits will be distributed.

**Participant directed investments.** You will be able to direct the investment of certain portions of your interest in the Plan. The Administrator will provide you with information on the investment choices available to you, the procedures for making investment elections, the frequency with which you can change your investment choices and other important information. You need to follow the procedures for making investment elections and you should carefully review the information provided to you before you give investment directions. If you do not direct the investment of your applicable Plan accounts, then your accounts will be invested in accordance with the default investment alternatives established under the Plan.

The Plan is intended to comply with Section 404(c) of ERISA (the Employee Retirement Income Security Act). If the Plan complies with this Section, then the fiduciaries of the Plan, including your Employer, the Trustee and the Administrator, will be relieved of any legal liability for any losses which are the direct and necessary result of the investment directions that you give.

**Earnings or losses.** When you direct investments, your accounts are segregated for purposes of determining the earnings or losses on these investments. Your account does not share in the investment performance of other participants who have directed their own investments. You should remember that the amount of your benefits under the Plan will depend in part upon your choice of investments. Gains as well as losses can occur and your Employer, the Administrator, and the Trustee will not provide investment advice or guarantee the performance of any investment you choose.

**Account limitations.** You may only direct the investment of amounts in the following accounts:

- salary deferral accounts
- account(s) attributable to Employer matching contributions
- accounts attributable to Employer profit sharing contributions
- rollover account
- transfer account

**Will Plan expenses be deducted from my account balance?**

**Expenses allocated to all accounts.** The Plan permits the payment of Plan expenses to be made from the Plan's assets. If expenses are paid using the Plan's assets, then the expenses will generally be allocated among the accounts of all participants in the Plan. These expenses will be allocated either proportionately based on the value of the account balances or as an equal dollar amount based on the number of participants in the Plan. The method of allocating the expenses depends on the nature of the expense itself. For example, certain administrative (or recordkeeping) expenses would typically be allocated proportionately to each participant. If the Plan pays \$1,000 in expenses and there are 100 participants, your account balance would be charged \$10 ( $\$1,000/100$ ) of the expense.

**Terminated employee.** After you terminate employment, your Employer reserves the right to charge your account for your pro rata share of the Plan's administration expenses, regardless of whether your Employer pays some of these expenses on behalf of current employees.

**Expenses allocated to individual accounts.** There are certain other expenses that may be paid just from your account. These are expenses that are specifically incurred by, or attributable to, you. For example, if you are married and get divorced, the Plan may incur additional expenses if a court mandates that a portion of your account be paid to your ex-spouse. These additional expenses may be paid directly from your account (and not the accounts of other participants) because they are directly attributable to you under the Plan. The Administrator will inform you when there will be a charge (or charges) directly to your account.

Your Employer may, from time to time, change the manner in which expenses are allocated.

**ARTICLE V  
VESTING**

**What is my vested interest in my account?**

In order to reward employees who remain employed with the Employer for a long period of time, the law permits a "vesting schedule" to be applied to certain contributions that your Employer makes to the Plan. This means that you will not be entitled ("vested") in all of the contributions until you have been employed with the Employer for a specified period of time.

**100% vested contributions.** You are always 100% vested (which means that you are entitled to all of the amounts) in your accounts attributable to the following contributions:

- salary deferrals including catch-up contributions
- rollover contributions

**Vesting schedules.** Your "vested percentage" for certain Employer contributions is based on vesting Years of Service. This means at the time you stop working, your account balance attributable to contributions subject to a vesting schedule is multiplied by your vested percentage. The result, when added to the amounts that are always 100% vested as shown above, is your vested interest in the Plan, which is what you will actually receive from the Plan. You will always, however, be 100% vested if you are employed on or after your Normal Retirement Age or if you die or become disabled.

Your "vested percentage" in your account attributable to profit sharing contributions is determined under the following schedule.

Vesting Schedule Profit Sharing Contributions	
Years of Service	Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6	100%

Your "vested percentage" in your account attributable to matching contributions is determined under the following schedule.

Vesting Schedule Matching Contributions	
Years of Service	Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6	100%

**How is my service determined for vesting purposes?**

**Year of Service.** To earn a Year of Service, you must be credited with at least 1,000 Hours of Service during a 12-month period beginning on your first day of employment and any anniversary of your employment date. The Plan contains specific rules for crediting Hours of Service for vesting purposes. The Administrator will track your service and will credit you with a Year of Service for each applicable 12-month period in which you are credited with the required Hours of Service, in accordance with the terms of the Plan. If you have any questions regarding your vesting service, you should contact the Administrator.

**Hour of Service.** You will be credited with your actual Hours of Service for:

- (a) each hour for which you are directly or indirectly compensated by the Employer for the performance of duties during the Plan Year;
- (b) each hour for which you are directly or indirectly compensated by the Employer for reasons other than the performance of duties (such as vacation, holidays, sickness, disability, lay-off, military duty, jury duty or leave of absence during the Plan Year); and
- (c) each hour for back pay awarded or agreed to by the Employer.

You will not be credited for the same Hours of Service both under (a) or (b), as the case may be, and under (c).

#### **What service is counted for vesting purposes?**

**Service with the Employer.** In calculating your vested percentage, all service you perform for the Employer will generally be counted. However, there are some exceptions to this general rule.

**Excluded vesting service.** Years of Service prior to the time you reached age 18 will not be counted for vesting purposes.

**Break in Service rules.** If you terminate employment and are rehired, you may lose credit for prior service under the Plan's Break in Service rules.

For vesting purposes, you will have a Break in Service if you complete less than 501 Hours of Service during the computation period used to determine whether you have a Year of Service. However, if you are absent from work for certain leaves of absence such as a maternity or paternity leave, you may be credited with enough Hours of Service to prevent a Break in Service.

**Five-year Break in Service rule.** The five-year Break in Service rule applies only to participants who had no vested interest in the Plan when employment had terminated. If you were not vested in any amounts when you terminated employment and you have five 1-Year Breaks in Service (as defined above), all the service you earned before the 5-year period no longer counts for vesting purposes. Thus, if you return to employment after incurring five 1-Year Breaks in Service, you will be treated as a new employee (with no service) for purposes of determining your vested percentage under the Plan.

**Military Service.** If you are a veteran and are reemployed under the Uniformed Services Employment and Reemployment Rights Act of 1994, your qualified military service may be considered service with the Employer. If you may be affected by this law, ask the Administrator for further details.

#### **What happens to my non-vested account balance if I'm rehired?**

If you have no vested interest in the Plan when you leave, your account balance will be forfeited. However, if you are rehired before incurring five 1-Year Breaks in Service, your account balance as of your termination date will be restored, unadjusted for any gains or losses.

If you are partially vested in your account balance when you leave, the non-vested portion of your account balance will be forfeited on the earlier of the date:

- (a) of the distribution of your vested account balance, or
- (b) when you incur five consecutive 1-year Breaks in Service.

If you received a distribution of your vested account balance and are rehired, you may have the right to repay this distribution. If you repay the entire amount of the distribution, your Employer will restore your account balance with your forfeited amount. You must repay this distribution within five years from your date of reemployment, or, if earlier, before you incur five 1-Year Breaks in Service. If you were 100% vested when you left, you do not have the opportunity to repay your distribution.

#### **What happens if the Plan becomes a "top-heavy plan"?**

**Top-heavy plan.** A retirement plan that primarily benefits "key employees" is called a "top-heavy plan." Key employees are certain owners or officers of your Employer. A plan is generally a "top-heavy plan" when more than 60% of the plan assets are attributable to key employees. Each year, the Administrator is responsible for determining whether the Plan is a "top-heavy plan."

**Top-heavy rules.** If the Plan becomes top-heavy in any Plan Year, then non-key employees may be entitled to certain "top-heavy minimum benefits," and other special rules will apply. These top-heavy rules include the following:

- Your Employer may be required to make a contribution on your behalf in order to provide you with at least "top-heavy minimum benefits."
- If you are a participant in more than one Plan, you may not be entitled to "top-heavy minimum benefits" under both Plans.

### **ARTICLE VI DISTRIBUTIONS PRIOR TO TERMINATION**

#### **Can I withdraw money from my account while working?**

**In-service distributions.** You may be entitled to receive an in-service distribution. However, this distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement. This distribution is made at your election and will be made in accordance with the forms of distributions available under the Plan.

**Conditions.** Generally you may receive a distribution from the Plan prior to your termination of employment provided you satisfy any of the following conditions:

- you have reached Normal Retirement Age

**Account restrictions.** You may request an in-service distribution only from the vested portion of the following accounts:

- salary deferral accounts
- account(s) attributable to Employer matching contributions
- accounts attributable to Employer profit sharing contributions
- qualified nonelective contribution accounts
- rollover accounts (*distributions may be made at any time*)
- transfer accounts

**Can I withdraw money from my account in the event of financial hardship?**

**Hardship distributions.** You may withdraw money for financial hardship if you satisfy certain conditions. This hardship distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement.

**Qualifying expenses.** A hardship distribution may be made to satisfy certain immediate and heavy financial needs that you have. A hardship distribution may only be made for payment of the following:

- Expenses for medical care (described in Section 213(d) of the Internal Revenue Code) previously incurred by you, your spouse or your dependents or necessary for you, your spouse or your dependents to obtain medical care.
- Costs directly related to the purchase of your principal residence (excluding mortgage payments).
- Tuition, related educational fees, and room and board expenses for the next twelve (12) months of post-secondary education for yourself, your spouse or your dependents.
- Amounts necessary to prevent your eviction from your principal residence or foreclosure on the mortgage of your principal residence.
- Payments for burial or funeral expenses for your deceased parent, spouse, children or other dependents.
- Expenses for the repair of damage to your principal residence that would qualify for the casualty deduction under the Internal Revenue Code.

**Conditions.** If you have any of the above expenses, a hardship distribution can only be made if you certify and agree that all of the following conditions are satisfied:

- (a) The distribution is not in excess of the amount of your immediate and heavy financial need. The amount of your immediate and heavy financial need may include any amounts necessary to pay any federal, state, or local income taxes or penalties reasonably anticipated to result from the distribution;
- (b) You have obtained all distributions, other than hardship distributions, and all nontaxable loans currently available under all plans that your Employer maintains; and
- (c) That your salary deferrals will be suspended for at least six (6) months after your receipt of the hardship distribution.

**Account restrictions.** You may request a hardship distribution only from the vested portion of the following accounts:

- salary deferral accounts
- account(s) attributable to Employer matching contributions
- accounts attributable to Employer profit sharing contributions
- rollover accounts

- transfer accounts

In addition, there are restrictions placed on hardship distributions which are made from certain accounts. These accounts are the ones set up to receive your salary deferral contributions and other Employer contributions which are used to satisfy special rules that apply to 401(k) plans. Generally, the only amounts that can be distributed to you on account of a hardship from these accounts are your salary deferrals. The earnings on your salary deferrals and special Employer contributions may not be distributed to you on account of a hardship. Ask the Administrator if you need further details.

In the event you receive a hardship distribution, you will not be allowed to make salary deferrals for a period of six (6) months after you receive the distribution.

## ARTICLE VII BENEFITS AND DISTRIBUTIONS UPON TERMINATION OF EMPLOYMENT

### When can I get money out of the Plan?

You may receive a distribution of the vested portion of some or all of your accounts in the Plan for the following reasons:

- termination of employment for reasons other than death, disability or retirement
- normal retirement
- disability

This Plan is designed to provide you with retirement benefits. However, distributions are permitted if you die or become disabled. In addition, certain payments are permitted when you terminate employment for any other reason. The rules under which you can receive a distribution are described in this Article. The rules regarding the payment of death benefits to your beneficiary are described in "Benefits and Distributions Upon Death."

You may also receive distributions while you are still employed with the Employer. (See the Article entitled "Distributions Prior to Termination" for a further explanation.)

### What happens if I terminate employment before death, disability or retirement?

If your employment terminates for reasons other than death, disability or normal retirement, you will be entitled to receive only the "vested percentage" of your account balance.

If your vested account balance exceeds \$5,000, you may elect to have your vested account balance distributed to you as soon as administratively feasible after the last day of the Plan Year coinciding with or next following the date on which you terminate employment.

If your vested account balance does not exceed \$5,000, a distribution of your vested account balance will be made to you, regardless of whether you consent to receive it, as soon as administratively feasible following your termination of employment. (See the question entitled "How will my benefits be paid to me?" for an explanation of how these amounts will be paid.)

Amounts in your rollover account will not be considered as part of your benefit in determining whether the \$5,000 threshold for timing of payments described above has been exceeded as well as for determining if the value of your vested account balance exceeds the \$5,000 threshold used to determine whether you must consent to a distribution.

### What happens if I terminate employment at Normal Retirement Date?

**Normal Retirement Date.** You will attain your Normal Retirement Age when you reach your 62nd birthday. Your Normal Retirement Date is the first day of the month coinciding with or next following your Normal Retirement Age.

**Payment of benefits.** You will become 100% vested in all of your accounts under the Plan if you retire on or after your Normal Retirement Age. However, the actual payment of benefits generally will not begin until you reach your Normal Retirement Date (even if employment has not terminated). In such event, a distribution will be made, at your election, as soon as administratively feasible. If you remain employed past your Normal Retirement Date, you may generally defer the receipt of benefits until you actually terminate employment. In such event, benefit payments will begin as soon as feasible at your request, but not later than age 70 1/2. (See the question entitled "How will my benefits be paid to me?" for an explanation of how these benefits will be paid.)

### What happens if I terminate employment due to disability?

**Definition of disability.** Under the Plan, disability is defined as a physical or mental condition resulting from bodily injury, disease, or mental disorder which renders you incapable of continuing any gainful occupation and which has lasted or can be expected to last for a continuous period of at least twelve (12) months. Your disability must be determined by a licensed physician. However, if your condition

constitutes total disability under the federal Social Security Act, then the Administrator may deem that you are disabled for purposes of the Plan.

**Payment of benefits.** If you become disabled while an employee, you will become 100% vested in all of your accounts under the Plan. Payment of your disability benefits will be made to you as if you had retired. However, if the value of your account balance does not exceed \$5,000, then a distribution of your account balance will be made to you, regardless of whether you consent to receive it. (See the question entitled "How will my benefits be paid to me?" for an explanation of how these benefits will be paid.)

#### **How will my benefits be paid to me?**

**Lump-sum distributions.** All distributions from the Plan will be made in a single lump-sum payment. If your vested account balance exceeds \$5,000, you must consent to the distribution before it may be made.

**Delaying distributions.** You may delay the distribution of your vested account balance unless a distribution is required to be made, as explained earlier, because your vested account balance does not exceed \$5,000. However, if you elect to delay the distribution of your vested account balance, there are rules that require that certain minimum distributions be made from the Plan. If you are a 5% owner, distributions are required to begin not later than the April 1st following the end of the year in which you reach age 70 1/2. If you are not a 5% owner, distributions are required to begin not later than the April 1st following the later of the end of the year in which you reach age 70 1/2 or retire. You should see the Administrator if you think you may be affected by these rules.

**Medium of payment.** Benefits under the Plan will generally be paid to you in cash or in property.

### **ARTICLE VIII BENEFITS AND DISTRIBUTIONS UPON DEATH**

#### **What happens if I die while working for the Employer?**

If you die while still employed by the Employer, then 100% of your account balance will be used to provide your beneficiary with a death benefit.

#### **Who is the beneficiary of my death benefit?**

**Married Participant.** If you are married at the time of your death, your spouse will be the beneficiary of the entire death benefit unless an election is made to change the beneficiary. IF YOU WISH TO DESIGNATE A BENEFICIARY OTHER THAN YOUR SPOUSE, YOUR SPOUSE MUST IRREVOCABLY CONSENT TO WAIVE ANY RIGHT TO THE DEATH BENEFIT. YOUR SPOUSE'S CONSENT MUST BE IN WRITING, BE WITNESSED BY A NOTARY OR A PLAN REPRESENTATIVE AND ACKNOWLEDGE THE SPECIFIC NONSPOUSE BENEFICIARY.

If you are married and you change your designation, then your spouse must again consent to the change. In addition, you may elect a beneficiary other than your spouse without your spouse's consent if your spouse cannot be located.

**Unmarried Participant.** If you are not married, you may designate a beneficiary on a form to be supplied to you by the Administrator.

**No beneficiary designation.** At the time of your death, if you have not designated a beneficiary or your beneficiary is also not alive, the death benefit will be paid in the following order of priority to:

- (a) your surviving spouse
- (b) your children, including adopted children in equal shares (and if a child is not living, that child's share will be distributed to that child's heirs)
- (c) your surviving parents, in equal shares
- (d) your estate

#### **How will the death benefit be paid to my beneficiary?**

**Lump-sum distributions.** The death benefit will be paid to your beneficiary in a single lump-sum payment.

#### **When must the last payment be made to my beneficiary?**

The law generally restricts the ability of a retirement plan to be used as a method of retaining money for purposes of your death estate. Thus, there are rules that are designed to ensure that death benefits are distributable to beneficiaries within certain time periods.

Regardless of the method of distribution selected, if your designated beneficiary is a person (rather than your estate or some trusts) then minimum distributions of your death benefit will begin by the end of the year following the year of your death ("1-year rule") and must be

paid over a period not extending beyond your beneficiary's life expectancy. If your spouse is the beneficiary, then under the "1-year rule," the start of payments will be delayed until the year in which you would have attained age 70 1/2 unless your spouse elects to begin distributions over his or her life expectancy before then. However, instead of the "1-year rule" your beneficiary may elect to have the entire death benefit paid by the end of the fifth year following the year of your death (the "5-year rule"). Generally, if your beneficiary is not a person, your entire death benefit must be paid under the "5-year rule."

Since your spouse has certain rights to the death benefit, you should immediately report any change in your marital status to the Administrator.

**What happens if I'm a participant, terminate employment and die before receiving all my benefits?**

If you terminate employment with the Employer and subsequently die, your beneficiary will be entitled to your remaining interest in the Plan at the time of your death. The provision in the Plan providing for full vesting of your benefit upon death does not apply if you die after terminating employment.

**ARTICLE IX  
TAX TREATMENT OF DISTRIBUTIONS**

**What are my tax consequences when I receive a distribution from the Plan?**

Generally, you must include any Plan distribution in your taxable income in the year in which you receive the distribution. The tax treatment may also depend on your age when you receive the distribution. Certain distributions made to you when you are under age 59 1/2 could be subject to an additional 10% tax.

**Can I elect a rollover to reduce or defer tax on my distribution?**

**Rollover or Direct Transfer.** You may reduce, or defer entirely, the tax due on your distribution through use of one of the following methods:

(a) **60-day rollover.** The rollover of all or a portion of the distribution to an *Individual Retirement Account or Annuity (IRA)* or another employer retirement plan willing to accept the rollover. This will result in no tax being due until you begin withdrawing funds from the IRA or other qualified employer plan. The rollover of the distribution, however, **MUST** be made within strict time frames (normally, within 60 days after you receive your distribution). Under certain circumstances all or a portion of a distribution (such as a hardship distribution) may not qualify for this rollover treatment. In addition, most distributions will be subject to mandatory federal income tax withholding at a rate of 20%. This will reduce the amount you actually receive. For this reason, if you wish to roll over all or a portion of your distribution amount, the direct transfer option described in paragraph (b) below would be the better choice.

(b) **Direct rollover.** For most distributions, you may request that a direct transfer (sometimes referred to as a direct rollover) of all or a portion of a distribution be made to either an *Individual Retirement Account or Annuity (IRA)* or another employer retirement plan willing to accept the transfer. A direct transfer will result in no tax being due until you withdraw funds from the IRA or other employer plan. Like the rollover, under certain circumstances all or a portion of the amount to be distributed may not qualify for this direct transfer. If you elect to actually receive the distribution rather than request a direct transfer, then in most cases 20% of the distribution amount will be withheld for federal income tax purposes.

**Automatic IRA Rollover.** If a mandatory distribution is being made to you because your vested interest in the Plan does not exceed \$5,000 and the amount of the distribution exceeds \$1,000, then the law may require that your distribution be directly rolled over to an IRA. If you do not make an affirmative election to either receive or roll over the distribution, then the Plan must roll over your distribution to an IRA. The IRA provider selected by the Plan will invest the rollover funds in a type of investment designed to preserve principal and provide a reasonable rate of return and liquidity (e.g., an interest-bearing account, a certificate of deposit or a money market fund). The IRA provider will charge your account for any expenses associated with the establishment and maintenance of the IRA and with the IRA investments. You may transfer the IRA funds to any other IRA you choose. You will be provided with details regarding the IRA at the time you are entitled to a distribution. However, you may contact the Plan Administrator at the address and telephone number indicated in this SPD for further information regarding the Plan's automatic rollover provisions, the IRA provider, and the fees and expenses associated with the IRA.

**Tax Notice.** WHENEVER YOU RECEIVE A DISTRIBUTION, THE ADMINISTRATOR WILL DELIVER TO YOU A MORE DETAILED EXPLANATION OF THESE OPTIONS. HOWEVER, THE RULES WHICH DETERMINE WHETHER YOU QUALIFY FOR FAVORABLE TAX TREATMENT ARE VERY COMPLEX. YOU SHOULD CONSULT WITH QUALIFIED TAX COUNSEL BEFORE MAKING A CHOICE.

## ARTICLE X PROTECTED BENEFITS AND CLAIMS PROCEDURES

### **Are my benefits protected?**

As a general rule, your interest in your account, including your "vested interest," may not be alienated. This means that your interest may not be sold, used as collateral for a loan, given away or otherwise transferred. In addition, your creditors may not attach, garnish or otherwise interfere with your account.

### **Are there any exceptions to the general rule?**

There are two exceptions to this general rule. The Administrator must honor a "qualified domestic relations order." A "qualified domestic relations order" is defined as a decree or order issued by a court that obligates you to pay child support or alimony, or otherwise allocates a portion of your assets in the Plan to your spouse, former spouse, child or other dependent. If a qualified domestic relations order is received by the Administrator, all or a portion of your benefits may be used to satisfy that obligation. The Administrator will determine the validity of any domestic relations order received. You and your beneficiaries can obtain, without charge, a copy of the QUALIFIED DOMESTIC RELATIONS ORDER PROCEDURE from the Administrator.

The second exception applies if you are involved with the Plan's operation. If you are found liable for any action that adversely affects the Plan, the Administrator can offset your benefits by the amount that you are ordered or required by a court to pay the Plan. All or a portion of your benefits may be used to satisfy any such obligation to the Plan.

### **Can the Plan be amended?**

Your Employer has the right to amend the Plan at any time. In no event, however, will any amendment authorize or permit any part of the Plan assets to be used for purposes other than the exclusive benefit of participants or their beneficiaries. Additionally, no amendment will cause any reduction in the amount credited to your account.

### **What happens if the Plan is discontinued or terminated?**

Although your Employer intends to maintain the Plan indefinitely, your Employer reserves the right to terminate the Plan at any time. Upon termination, no further contributions will be made to the Plan and all amounts credited to your accounts will become 100% vested. Your Employer will direct the distribution of your accounts in a manner permitted by the Plan as soon as practicable. (See the question entitled "How will my benefits be paid to me?" for a further explanation.) You will be notified if the Plan is terminated.

### **How do I submit a claim for Plan benefits?**

Benefits will be paid to you and your beneficiaries without the necessity for formal claims. However, if you think an error has been made in determining your benefits, then you or your beneficiaries may make a request for any Plan benefits to which you believe you are entitled. Any such request should be in writing and should be made to the Administrator.

If the Administrator determines the claim is valid, then you will receive a statement describing the amount of benefit, the method or methods of payment, the timing of distributions and other information relevant to the payment of the benefit.

### **What if my benefits are denied?**

Your request for Plan benefits will be considered a claim for Plan benefits, and it will be subject to a full and fair review. If your claim is wholly or partially denied, the Administrator will provide you with a written or electronic notification of the Plan's adverse determination. This written or electronic notification must be provided to you within a reasonable period of time, but not later than 90 days after the receipt of your claim by the Administrator, unless the Administrator determines that special circumstances require an extension of time for processing your claim. If the Administrator determines that an extension of time for processing is required, written notice of the extension will be furnished to you prior to the termination of the initial 90-day period. In no event will such extension exceed a period of 90 days from the end of such initial period. The extension notice will indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the benefit determination.

In the case of a claim for disability benefits, if disability is determined by a physician (rather than relying upon a determination of disability for Social Security purposes), then instead of the above, the Administrator will provide you with written or electronic notification of the Plan's adverse benefit determination within a reasonable period of time, but not later than 45 days after receipt of the claim by the Plan. This period may be extended by the Plan for up to 30 days, provided that the Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies you, prior to the expiration of the initial 45-day period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If, prior to the end of the first 30-day extension period, the Administrator determines that, due to matters beyond the control of the Plan, a decision cannot be rendered within that extension period, the period for making the determination may be extended for up to an additional 30 days, provided that the Administrator notifies you, prior to the expiration of the first 30-day extension period, of the circumstances requiring the extension and the date as of which the plan expects to render a decision. In the case of any such extension, the notice of extension will specifically explain the

standards on which entitlement to a benefit is based, the unresolved issues that prevent a decision on the claim, and the additional information needed to resolve those issues, and you will be afforded at least 45 days within which to provide the specified information.

The Administrator's written or electronic notification of any adverse benefit determination must contain the following information:

- (a) The specific reason or reasons for the adverse determination.
- (b) Reference to the specific Plan provisions on which the determination is based.
- (c) A description of any additional material or information necessary for you to perfect the claim and an explanation of why such material or information is necessary.
- (d) Appropriate information as to the steps to be taken if you or your beneficiary want to submit your claim for review.
- (e) In the case of disability benefits where disability is determined by a physician:
  - (i) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of the rule, guideline, protocol, or other similar criterion will be provided to you free of charge upon request.
  - (ii) If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to your medical circumstances, or a statement that such explanation will be provided to you free of charge upon request.

If your claim has been denied, and you want to submit your claim for review, you must follow the Claims Review Procedure in the next question.

#### **What is the Claims Review Procedure?**

Upon the denial of your claim for benefits, you may file your claim for review, in writing, with the Administrator.

(a) YOU MUST FILE THE CLAIM FOR REVIEW NO LATER THAN 60 DAYS AFTER YOU HAVE RECEIVED WRITTEN NOTIFICATION OF THE DENIAL OF YOUR CLAIM FOR BENEFITS.

HOWEVER, IF YOUR CLAIM IS FOR DISABILITY BENEFITS AND DISABILITY IS DETERMINED BY A PHYSICIAN, THEN INSTEAD OF THE ABOVE, YOU MUST FILE THE CLAIM FOR REVIEW NO LATER THAN 180 DAYS FOLLOWING RECEIPT OF NOTIFICATION OF AN ADVERSE BENEFIT DETERMINATION.

- (b) You may submit written comments, documents, records, and other information relating to your claim for benefits.
- (c) You may review all pertinent documents relating to the denial of your claim and submit any issues and comments, in writing, to the Administrator.
- (d) You will be provided, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.
- (e) Your claim for review must be given a full and fair review. This review will take into account all comments, documents, records, and other information submitted by you relating to your claim, without regard to whether such information was submitted or considered in the initial benefit determination.

In addition to the Claims Review Procedure above, if your claim is for disability benefits and disability is determined by a physician, then the Claims Review Procedure provides that:

- (a) Your claim will be reviewed without deference to the initial adverse benefit determination and the review will be conducted by an appropriate named fiduciary of the Plan who is neither the individual who made the adverse benefit determination that is the subject of the appeal, nor the subordinate of such individual.
- (b) In deciding an appeal of any adverse benefit determination that is based in whole or part on medical judgment, the appropriate named fiduciary will consult with a health care professional who has appropriate training and experience in the field of medicine involved in the medical judgment.
- (c) Any medical or vocational experts whose advice was obtained on behalf of the Plan in connection with your adverse benefit determination will be identified, without regard to whether the advice was relied upon in making the benefit determination.

(d) The health care professional engaged for purposes of a consultation under (b) above will be an individual who is neither an individual who was consulted in connection with the adverse benefit determination that is the subject of the appeal, nor the subordinate of any such individual.

The Administrator will provide you with written or electronic notification of the Plan's benefit determination on review. The Administrator must provide you with notification of this denial within 60 days after the Administrator's receipt of your written claim for review, unless the Administrator determines that special circumstances require an extension of time for processing your claim. If the Administrator determines that an extension of time for processing is required, written notice of the extension will be furnished to you prior to the termination of the initial 60-day period. In no event will such extension exceed a period of 60 days from the end of the initial period. The extension notice will indicate the special circumstances requiring an extension of time and the date by which the Plan expects to render the determination on review. However, if the claim relates to disability benefits and disability is determined by a physician, then 45 days will apply instead of 60 days in the preceding sentences. In the case of an adverse benefit determination, the notification will set forth:

- (a) The specific reason or reasons for the adverse determination.
- (b) Reference to the specific Plan provisions on which the benefit determination is based.
- (c) A statement that you are entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to your claim for benefits.
- (d) In the case of disability benefits where disability is determined by a physician:
  - (i) If an internal rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination, either the specific rule, guideline, protocol, or other similar criterion; or a statement that such rule, guideline, protocol, or other similar criterion was relied upon in making the adverse determination and that a copy of the rule, guideline, protocol, or other similar criterion will be provided to you free of charge upon request.
  - (ii) If the adverse benefit determination is based on a medical necessity or experimental treatment or similar exclusion or limit, either an explanation of the scientific or clinical judgment for the determination, applying the terms of the Plan to your medical circumstances, or a statement that such explanation will be provided to you free of charge upon request.

If you have a claim for benefits which is denied, then you may file suit in a state or Federal court. However, in order to do so, you must file the suit no later than 180 days after the Administrator makes a final determination to deny your claim.

#### **What are my rights as a Plan participant?**

As a participant in the Plan you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all Plan participants are entitled to:

- (a) Examine, without charge, at the Administrator's office and at other specified locations, all documents governing the Plan and a copy of the latest annual report (Form 5500 Series) filed by the Plan with the U.S. Department of Labor and available at the Public Disclosure Room of the Employee Benefits Security Administration.
- (b) Obtain, upon written request to the Administrator, copies of documents governing the operation of the Plan, including insurance contracts and collective bargaining agreements, and copies of the latest annual report (Form 5500 Series) and updated summary plan description. The Administrator may make a reasonable charge for the copies.
- (c) Receive a summary of the Plan's annual financial report. The Administrator is required by law to furnish each participant with a copy of this summary annual report.
- (d) Obtain a statement telling you whether you have a right to receive a pension at Normal Retirement Age and, if so, what your benefits would be at Normal Retirement Age if you stop working under the Plan now. If you do not have a right to a pension benefit, the statement will tell you how many years you have to work to earn a right to a pension. **THIS STATEMENT MUST BE REQUESTED IN WRITING AND IS NOT REQUIRED TO BE GIVEN MORE THAN ONCE EVERY TWELVE (12) MONTHS.** The Plan must provide this statement free of charge.

In addition to creating rights for Plan participants, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate your Plan, called "fiduciaries" of the Plan, have a duty to do so prudently and in the interest of you and other Plan participants and beneficiaries. No one, including your Employer or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining a pension benefit or exercising your rights under ERISA.

If your claim for a pension benefit is denied or ignored, in whole or in part, you have a right to know why this was done, to obtain copies of documents relating to the decision without charge, and to appeal any denial, all within certain time schedules.

Under ERISA, there are steps you can take to enforce the above rights. For instance, if you request a copy of Plan documents or the latest annual report from the Plan and do not receive them within 30 days, you may file suit in a Federal court. In such a case, the court may

require the Administrator to provide the materials and pay you up to \$110.00 a day until you receive the materials, unless the materials were not sent because of reasons beyond the control of the Administrator.

If you have a claim for benefits which is denied or ignored, in whole or in part, you may file suit in a state or Federal court. In addition, if you disagree with the Plan's decision or lack thereof concerning the qualified status of a domestic relations order or a medical child support order, you may file suit in Federal court. You and your beneficiaries can obtain, without charge, a copy of the qualified domestic relations order ("QDRO") procedures from the Administrator.

If it should happen that the Plan's fiduciaries misuse the Plan's money, or if you are discriminated against for asserting your rights, you may seek assistance from the U.S. Department of Labor, or you may file suit in a Federal court. The court will decide who should pay court costs and legal fees. If you are successful, the court may order the person you have sued to pay these costs and fees. The court may order you to pay these costs and fees if you lose or if, for example, it finds your claim is frivolous.

#### **What can I do if I have questions or my rights are violated?**

If you have any questions about the Plan, you should contact the Administrator. If you have any questions about this statement or about your rights under ERISA, or if you need assistance in obtaining documents from the Administrator, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in the telephone directory or the Division of Technical Assistance and Inquiries, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. You may also obtain certain publications about your rights and responsibilities under ERISA by calling the publications hotline of the Employee Benefits Security Administration.

### **ARTICLE XI GENERAL INFORMATION ABOUT THE PLAN**

There is certain general information which you may need to know about the Plan. This information has been summarized for you in this Article.

#### **Plan Name**

The full name of the Plan is Mesaco Enterprises, Inc. 401(k) Plan.

#### **Plan Number**

Your Employer has assigned Plan Number 001 to your Plan.

#### **Plan Effective Dates**

The provisions of the Plan become effective on May 7, 2008.

#### **Other Plan Information**

Valuations of the Plan assets are generally made annually on the last day of the Plan Year. Certain distributions are based on the Anniversary Date of the Plan. This date is the last day of the Plan Year.

The Plan and Trust will be governed by the laws of Florida to the extent not governed by federal law.

Benefits provided by the Plan are NOT insured by the Pension Benefit Guaranty Corporation (PBGC) under Title IV of the Employee Retirement Income Security Act of 1974 because the insurance provisions under ERISA are not applicable to this type of Plan.

Service of legal process may be made upon your Employer. Service of legal process may also be made upon the Trustee or Administrator.

#### **Employer Information**

Your Employer's name, address and identification number are:

Mesaco Enterprises, Inc.  
7512 Dunbridge Drive  
Odessa, Florida 33556  
26-2566036

#### **Plan Administrator Information**

The Plan's Administrator is responsible for the day-to-day administration and operation of the Plan. For example, the Administrator maintains the Plan records, including your account information, provides you with the forms you need to complete for Plan participation, and directs the payment of your account at the appropriate time. The Administrator will also allow you to review the formal Plan document

and certain other materials related to the Plan. If you have any questions about the Plan or your participation, you should contact the Administrator. The Administrator may designate other parties to perform some duties of the Administrator.

The Administrator has the complete power, in its sole discretion, to determine all questions arising in connection with the administration, interpretation, and application of the Plan (and any related documents and underlying policies). Any such determination by the Administrator is conclusive and binding upon all persons.

The name, address and business telephone number of the Plan's Administrator are:

Mesaco Enterprises, Inc.  
7512 Dunbridge Drive  
Odessa, Florida 33556  
813.920.8347

#### **Plan Trustee Information and Plan Funding Medium**

All money that is contributed to the Plan is held in a trust fund. The Trustees are responsible for the safekeeping of the trust fund and must hold and invest Plan assets in a prudent manner and in the best interest of you and your beneficiaries. The trust fund established by the Plan's Trustee(s) will be the funding medium used for the accumulation of assets from which benefits will be distributed. While all the Plan assets are held in a trust fund, the Administrator separately accounts for each Participant's interest in the Plan.

The names and address of the Plan's Trustees are:

Roman Mesa, Trustee  
  
Carmen R. Mesa, Trustee  
7512 Dunbridge Drive  
Odessa, Florida 33556

The Trustees shall collectively be referred to as Trustee throughout this Summary Plan Description.

**MESACO ENTERPRISES, INC. 401(K) PLAN**  
**COMMON QUESTIONS ABOUT OUR 401(K) PLAN**

**Introduction**

The following questions and answers *highlight some of the important parts of our Plan*. Remember, these are only highlights. The Summary Plan Description ("SPD") describes the Plan in much greater detail. If you have any questions about these highlights, the SPD, or the Plan, you should ask the Plan Administrator.

**Q.** Why is your Employer sponsoring a 401(k) plan?

**A.** Your Employer is sponsoring this Plan so that you may save for retirement. This Plan is a type of qualified retirement plan commonly referred to as a 401(k) plan. As a participant under the Plan, you may elect to contribute a portion of your compensation to the Plan. In addition, your Employer may make contributions to the Plan on your behalf.

**Q.** How do I participate in the Plan?

**A.** Provided you are not an Excluded Employee, you may begin participating under the Plan once you have satisfied the eligibility requirements and reached your "Entry Date." The following describes the eligibility requirements and Entry Date that apply.

**Salary Deferrals and Rollover Contributions**

**Excluded Employees.** If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled participate in the Plan for purposes of salary deferrals and rollover contributions. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining
- certain nonresident aliens who have no earned income from sources within the United States
- leased employees

**Eligibility Conditions.** You will be eligible to participate for purposes of salary deferrals and rollover contributions when you have satisfied the following eligibility condition(s). However, you will actually enter the Plan once you reach the Entry Date as described below.

- attainment of age 21.
- completion of one (1) Year of Service.

**Entry Date.** For purposes of salary deferrals and rollover contributions, your Entry Date will be the first day of the Plan Year quarter coinciding with or next following the date you satisfy the eligibility requirements.

**Matching Contributions**

**Excluded Employees.** If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled participate in the Plan for purposes of matching contributions. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining
- certain nonresident aliens who have no earned income from sources within the United States
- leased employees

**Eligibility Conditions.** You will be eligible to participate for purposes of matching contributions when you have satisfied the following eligibility condition(s). However, you will actually enter the Plan once you reach the Entry Date as described below.

- attainment of age 21.
- completion of one (1) Year of Service.

**Entry Date.** For purposes of matching contributions, your Entry Date will be the first day of the Plan Year quarter coinciding with or next following the date you satisfy the eligibility requirements.

## Profit Sharing Contributions

**Excluded Employees.** If you are a member of a class of employees identified below, you are an Excluded Employee and you are not entitled participate in the Plan for purposes of profit sharing contributions. The Excluded Employees are:

- union employees whose employment is governed by a collective bargaining agreement under which retirement benefits were the subject of good faith bargaining
- certain nonresident aliens who have no earned income from sources within the United States
- leased employees

**Eligibility Conditions.** You will be eligible to participate for purposes of profit sharing contributions when you have satisfied the following eligibility condition(s). However, you will actually enter the Plan once you reach the Entry Date as described below.

- attainment of age 21
- completion of one (1) Year of Service.

**Entry Date.** For purposes of profit sharing contributions, your Entry Date will be the first day of the Plan Year quarter coinciding with or next following the date you satisfy the eligibility requirements.

**Q.** What are salary deferrals and how do I contribute them to the Plan?

**A.** **Salary Deferrals.** As a participant under the Plan, you may elect to reduce your compensation by a specific percentage or dollar amount and have that amount contributed to the Plan on a pre-tax basis as a salary deferral. Your taxable income is reduced by the deferral contribution so you pay less in federal income taxes. Later, when the Plan distributes the deferrals and earnings, you will pay the taxes on those deferrals and the earnings. Therefore, federal income taxes on the deferral contributions and on the earnings are only postponed. Eventually, you will have to pay taxes on these amounts. However, the amount you defer is counted as compensation for Social Security taxes.

You may receive additional amounts from your Employer if you do contribute.

**Q.** When will I receive payments from the Plan?

**A.** The Plan is designed to encourage you to stay with the Employer until retirement. Payment will generally occur at your Normal Retirement Date, unless you postpone your actual retirement. Your Normal Retirement Date is the first day of the month coinciding with or next following your Normal Retirement Age. You will attain your Normal Retirement Age when you reach your 62nd birthday.

**Q.** How much will I be paid when I retire?

**A.** The amount you are paid when you retire will be based upon the amount of money your Employer has put into the Plan for you (including your salary deferrals), plus or minus any earnings or losses. You should review the Article in the SPD entitled "Employer Contributions" for an explanation of how your Employer makes contributions to the Plan and how they are shared by eligible employees.

**Q.** How will payments be made when I retire?

**A.** All distributions from the Plan will be made in a single lump-sum payment. If your vested account balance exceeds \$5,000, you must consent to the distribution before it may be made.

You should review the Article in the SPD entitled "Benefits and Distributions Upon Termination of Employment" for a further explanation of the rules associated with the payment of benefits.

**Q.** What if I stop working before I retire?

**A.** If you stop working before you retire, you will only be entitled to the "vested percentage" of your account balance.

100% vested contributions. You are always 100% vested (which means that you are entitled to all of the amounts) in your accounts attributable to the following contributions:

- salary deferrals including catch-up contributions
- rollover contributions

**Vesting schedules.** Your "vested percentage" for certain Employer contributions is based on vesting Years of Service. This means at the time you stop working, your account balance (attributable to contributions subject to a vesting schedule) is multiplied by your vested percentage. The result, when added to the amounts that are always 100% vested as shown above, is your vested interest in the Plan, which is what you will actually receive from the Plan. You will always, however, be 100% vested if you are employed on or after your Normal Retirement Age or if you die or become disabled.

Your "vested percentage" in your account attributable to profit sharing contributions is determined under the following schedule.

Vesting Schedule Profit Sharing Contributions	
Years of Service	Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6	100%

Your "vested percentage" in your account attributable to matching contributions is determined under the following schedule.

Vesting Schedule Matching Contributions	
Years of Service	Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6	100%

**Q.** If I stop working before retirement, when will my vested amount be paid?

**A.** If your employment terminates for reasons other than death, disability or normal retirement, you will be entitled to receive only the "vested percentage" of your account balance.

If your vested account balance exceeds \$5,000, you may elect to have your vested account balance distributed to you as soon as administratively feasible after the last day of the Plan Year coinciding with or next following the date on which you terminate employment.

If your vested account balance does not exceed \$5,000, a distribution of your vested account balance will be made to you following your termination of employment regardless of consent. (See the question entitled "How will my benefits be paid to me?" for an explanation of how these amounts will be paid.)

**Q.** What if I die before I retire?

**A.** Your beneficiary will be entitled to 100% of your interest in the Plan upon your death. If you are single, you may name anyone you like to be your beneficiary. If you are married, your spouse is your beneficiary with respect to 100% of your death benefit unless you and your spouse name someone else as your beneficiary. You should review the question entitled "Who is the beneficiary of my death benefit?" in the SPD.

**Q.** Can I withdraw money from the Plan while I'm still working?

**A.** Generally you may receive a distribution from the Plan prior to your termination of employment provided you satisfy any of the following conditions:

- you have reached Normal Retirement Age.

This distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement.

In certain instances you may also receive an in-service distribution if you incur a financial hardship. This hardship distribution is not in addition to your other benefits and will therefore reduce the value of the benefits you will receive at retirement.

There are various rules and restrictions regarding withdrawing money from your accounts in the Plan while you are still employed. Please review the SPD for more information on these rules and restrictions.

NOTE: THESE QUESTIONS AND ANSWERS ARE NOT MEANT TO BE A SUBSTITUTE FOR A THOROUGH READING OF THE SUMMARY PLAN DESCRIPTION. THE PROVISIONS OF THE 401(k) PLAN ARE VERY COMPLEX. IT IS NOT POSSIBLE TO FULLY EXPLAIN ALL ASPECTS OF THE PLAN IN THESE SHORT QUESTIONS AND ANSWERS. YOU SHOULD ALWAYS CONSULT THE SUMMARY PLAN DESCRIPTION IF YOU HAVE ANY QUESTIONS ABOUT THE PLAN. IF, AFTER READING THE SUMMARY PLAN DESCRIPTION, YOU STILL HAVE QUESTIONS, YOU SHOULD CONTACT THE PLAN ADMINISTRATOR.

## **FUNDING POLICY STATEMENT OF MESACO ENTERPRISES, INC. 401(K) PLAN**

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Pursuant to Section 7.14 ("Employer Securities and Real Property") of the Basic Plan Document, Mesaco Enterprises, Inc. ("Employer") hereby adopts this Funding Policy Statement:

1. The Plan. Employer sponsors the Mesaco Enterprises, Inc. 401(k) Plan ("the Plan") for the benefit of its employees. It is intended to provide eligible employees with the long-term accumulation of retirement savings through a combination of contributions to individual participant accounts and the investment earnings thereon. The Plan is intended to constitute a participant directed individual account plan as described in ERISA § 404(c) and the regulations issued thereunder. As such, the fiduciaries of the Plan may be relieved of liability for any losses that are the direct and necessary result of investment instructions given by such participant or beneficiary.

2. Investment Alternatives; Permissible Investments. The provisions of Section 7.14 of the Basic Plan Document are incorporated by this reference. As provided in Section 7.14, each Participant shall have the responsibility for directing the Trustee regarding the investment of all or part of his or her Individual Account. The Plan does not pre-select investment funds for Participants. The Participant may invest his or her account assets in any available investment, subject only to the requirement that that all investments must be within the scope of Section 7.14 of the Basic Plan Document and must also be in compliance with this Funding Policy Statement. The Trustee has no duty to provide investment advice to any Participant. Participant is required to identify and designate his or her own investment advisor(s) and/or investment manager(s). Participant shall be solely liable for any taxes, fees, costs, charges, and expenses of any type or nature that are chargeable or attributable directly or indirectly to the Plan as a result of any transaction or investment made by the Participant or Beneficiary, or by the Trustee on his or her behalf.

3. Investment Instructions to Trustee. The Participant may give investment instructions to the Trustee in writing or otherwise. If Participant so requests, the Trustee will confirm such investment instructions in writing. The Plan will charge Participant's account for the reasonable expenses of carrying out investment instructions. The Trustee will periodically inform the Participant of actual expenses incurred with respect to the Participant's individual account. Participants may give investment instructions to the Trustee during the first week of each month with respect to the purchase or sale of securities (including mutual funds), and at any time with respect to other investments.

4. Pass-Through of Voting Rights. All voting, tender and similar rights of any securities purchased by the Plan for a Participant's individual account shall be passed through to the Participant or Beneficiary whose account holds such securities. If the Trustee receives any proxy statements or other written materials that entail voting or tender topics for securities held in a Participant's account (collectively "Proxy Materials"), the Trustee shall deliver such Proxy Materials forthwith to the Participant. It

is the duty of the Participant to open such materials and determine any applicable deadlines for response. The Participant shall execute any votes, proxies, tender instructions or other responses to the Proxy Materials and deliver the Participant's response to the Trustee in sufficient time to enable the Trustee to post such response into the U.S. Mail in time to comply with any applicable submission deadlines.

5. Qualifying Employer Securities. The Participant may elect to acquire and hold Qualifying Employer Securities as defined in ERISA § 407(d)(5) as now existing or hereafter amended, should an offering of such Qualifying Employer Securities be made now or at some time in the future. The Plan may hold up to 100% of its assets in qualifying employer securities per ERISA § 406(d)(3)(B) as now existing or hereafter amended.

6. No Prohibited Transactions. The Participant shall not engage in any investment or transaction that constitutes a Prohibited Transaction within the meaning of ERISA §§ 406 or 407, or within Internal Revenue Code sec 4975(c)(1), as now existing or hereafter amended. Should Participant engage in a Prohibited Transaction, Participant shall correct the transaction immediately, and shall bear fully responsibility for any and all costs, expenses, taxes, fees or penalties that result from such Prohibited Transaction.

7. No Margin Transactions. Participant shall not make any investments on margin without the express prior written approval of the Employer and the Trustee. If such prior written approval is granted, it shall be on the condition that Participant bears any and all federal and state taxes, together with any and all additional costs, fees and expenses incurred by Employer as a result of such margin transactions, including additional accounting, bookkeeping, legal and administrative fees incurred to prepare any Form 5500 tax return for the plan year in question.

8. No Unrelated Business Taxable Income Transactions. Participant shall not make any investments or engage in any transactions that generate Unrelated Business Taxable Income (UBTI) as defined in Internal Revenue Code Sections 512, 513, and 514 as now existing or hereafter amended, without the express prior written approval of the Employer and the Trustee. If such prior written approval is granted, it shall be on the condition that Participant bears any and all federal and state taxes, together with any and all additional costs, fees and expenses incurred by Employer as a result of such UBTI transactions, including additional accounting, bookkeeping, legal and administrative fees incurred to prepare any Form 5500 tax return for the plan year in question.

9. No Investments in Collectibles. In accordance with Section 7.14 of the Basic Plan Document, a Participant or Beneficiary shall not make any investment; nor direct the Trustee to make any investment, in "collectibles" as that term is defined in IRC § 408(m).

10. Other Investment Restrictions. A Participant or Beneficiary shall not make any investment, nor direct the Trustee to make any investment that:

- (A) Would not be in accordance with the documents and instruments governing the plan insofar as such documents and instruments are consistent with the provisions of Title I of ERISA;
- (B) Would cause a fiduciary to maintain the indicia of ownership of any assets of the Plan outside the jurisdiction of the district courts of the United States;
- (C) Would jeopardize the Plan's tax qualified status under the Internal Revenue Code or would otherwise constitute a violation of law;
- (D) Could result in a loss in excess of a participant's or beneficiary's account balance; or
- (E) Would result in a direct or indirect:
  - (1) Sale, exchange, or lease of property between the Plan and a party in interest, i.e., a "prohibited transaction" within the meaning of ERISA § 406;
  - (2) Loan to a Plan sponsor;
  - (3) Acquisition or sale of any employer real property; or
  - (4) Acquisition or sale of any employer security that does not comply with the requirements of ERISA and the regulations issued thereunder.

11. Designation and Duties of Fiduciary. The Plan's Co-Trustees, who are the designated fiduciaries, are Roman Mesa and Carmen R. Mesa. A Trustee is obligated to comply with investment instructions from a participant, except as otherwise required by ERISA, the Plan documents, and this Funding Policy Statement. The Trustee's address and phone number are the same as that of the Employer. A Trustee is responsible for ensuring that the confidentiality of information relating to the purchase, holding, and sale of securities, and the exercise of voting, tender and similar rights for securities that have been purchased by participants is maintained, except to the extent necessary to comply with Federal law or state laws not preempted by ERISA.

12. Coordination with the Plan Documents. Notwithstanding the foregoing, if any term or condition of this Funding Policy Statement conflicts with any term or condition in the Plan, the terms and conditions of the Plan shall control.

13. Participant's Control Over His or Her Self-Directed Account. Because this is an individual account plan, the Participant is expected to exercise independent control over the investment of the assets in his or her individual account. To that end, each Participant is expected to obtain sufficient information to make informed decisions as to such investments from an investment advisor or investment manager of his or her own choosing. Each Participant thus needs to evaluate his or her own investment objectives, and the risk and return characteristics of potential investments. Each Participant also needs to evaluate the diversification of assets within his or her individual account. The Participant is expected to request information from his or her own investment advisor or investment manager, including the following: the transaction fees and expenses that may be incurred with any particular investment that is being considered; a copy of the most recent prospectus, financial statements, and reports of any securities or mutual funds being considered; annual operating expenses of any investment funds; a listing of the portfolio assets of any investment fund; the past and current investment performance of all investments being considered; and information concerning the value of shares or units held in Participant's individual account.

14. Employer's Right to Amend Funding Policy Statement. Employer reserves the right to amend this 401(k) Funding Policy Statement at any time, and from time to time; provided, however, that any such amendment shall operate on a prospective basis only. Notwithstanding the prospective nature of any such amendment, Participant shall be solely liable for any additional taxes, fees, costs, charges, and expenses of any type or nature that are chargeable or attributable directly or indirectly to the Plan as a result of any transaction or investment made by the Participant or on his or her behalf.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 200 \_\_\_\_.

**EMPLOYER:**

By: \_\_\_\_\_  
Roman Mesa, President

**PARTICIPANT:**

By: \_\_\_\_\_  
Signature of Employee

\_\_\_\_\_  
Printed Name of Employee

MESACO ENTERPRISES, INC. 401(K) PLAN

SALARY DEFERRAL AGREEMENT

Participant: \_\_\_\_\_

In accordance with the Plan, I enter into this Salary Deferral Agreement ("Agreement").

As a participant in Mesaco Enterprises, Inc. 401(k) Plan, I understand the Plan permits me to defer a portion of my compensation. The amount that I elect to defer will be withheld from my pay and paid by Mesaco Enterprises, Inc. into the Plan on my behalf.

This salary deferral agreement remains in effect until I revoke or modify it. Modifications to the Agreement are permitted prior to a pay period. I am also permitted to revoke my Agreement at any time during the Plan Year.

The Plan permits me to defer my compensation up to the maximum amount allowed by law.

The Plan also permits me to make "catch-up" contributions if I am age 50 or older. These are additional amounts that I may defer regardless of any other limits imposed by the Plan.

In addition, the employer may match my salary deferrals. The Summary Plan Description explains the matching contributions that may be made to the Plan.

1. ( ) I hereby make the following deferral election:

**Amount of Deferral**

( ) Deferrals: In accordance with my rights as a Participant and the provisions of the Plan, I hereby elect to defer my pay by \_\_\_\_%. This election authorizes Sample Inc. to withhold this amount from my pay, and shall remain in effect until I revoke or modify this election.

I understand that the total amount of my salary deferrals in any calendar year cannot exceed a dollar limit which is set by law. This amount may be adjusted annually to reflect cost-of-living increases announced by the IRS. Any questions regarding this election should be directed to the Plan Administrator.

( ) Catch-up Contributions: In accordance with my rights as a Participant and the provisions of the Plan, I hereby elect to defer my pay by an additional \_\_\_\_% since I am at least age 50, I am entitled to make "catch-up" contributions, and, pursuant to my election in the immediately preceding paragraph. I am deferring the maximum amount permitted by the Plan. This election authorizes Mesaco Enterprises, Inc. to withhold this amount from my pay, and shall remain in effect until I revoke or modify this election. I understand that the total amount of my "catch-up" contributions in any calendar year

cannot exceed a dollar limit which is set by law. This amount may be adjusted annually to reflect any cost-of-living increases announced by the IRS. Any questions regarding this election should be directed to the Plan Administrator.

**Duty to Review Pay Records.** I understand I have a duty to review my pay records (pay stub, direct deposit receipt, etc.) to confirm the Employer has properly implemented my salary deferral election. Furthermore, I have a duty to inform the Plan Administrator if I discover any discrepancy between my pay records and this Salary Deferral Agreement. I understand the Plan Administrator will treat my failure to report any withholding errors for any payroll to which my Salary Deferral Agreement applies, by the cut-off date for the next following payroll, as my affirmative election to defer the amount actually withheld (including zero). However, I thereafter may modify my deferral election prospectively, consistent with the Plan terms.

2. ( ) I hereby elect NOT to defer my pay at this time in accordance with my rights as a Participant and the provisions of the Plan. I understand that I may elect to defer my pay at a later date as the Plan allows.

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Participant

\_\_\_\_\_  
Employer

MESACO ENTERPRISES, INC. 401(K) PLAN

DESIGNATION OF BENEFICIARY

Participant: \_\_\_\_\_

I hereby acknowledge receipt of the Summary Plan Description and agree to abide by all of the rules and regulations set forth in the Plan. The following applies to me (select one):

I have recently become a Participant of Mesaco Enterprises, Inc. 401(k) Plan and I hereby make an election of beneficiary(ies).

I am already a Participant of Mesaco Enterprises, Inc. 401(k) Plan and I hereby update my DESIGNATION OF BENEFICIARY form for death benefits to be paid under the Plan.

Regarding any amount payable under the Plan by reason of my death, I make the following election (select the one option that applies to you):

1.  MARRIED PARTICIPANT

I understand that the death benefit must be paid to my surviving spouse, unless my spouse consents in writing to an alternative beneficiary. The Plan Administrator has provided me with a detailed explanation of these rights concerning the death benefit (PRE-RETIREMENT SURVIVOR BENEFIT EXPLANATION and ELECTION TO WAIVE PRE-RETIREMENT SURVIVOR BENEFIT, WITH SPOUSAL CONSENT).

I understand that I must immediately inform the Plan Administrator of any change in my marital status.

Understanding my options, I choose to:

keep my spouse as primary beneficiary. But if my spouse does not survive me, I name as contingent beneficiary(ies):

\_\_\_\_\_  
\_\_\_\_\_

name someone other than my spouse as the primary beneficiary. I understand that my spouse must agree to this waiver.

2. ( ) UNMARRIED PARTICIPANT

I designate as beneficiary(ies) the person(s) named below. However, if I thereafter marry, this will revoke the designation. I will therefore immediately inform the Plan Administrator of any change in my marital status.

Primary Beneficiary(ies) and relationship: \_\_\_\_\_

\_\_\_\_\_

Contingent Beneficiary(ies) and relationship: \_\_\_\_\_

\_\_\_\_\_

EXECUTED this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Signature of Participant

\_\_\_\_\_  
Birth Date

\_\_\_\_\_  
Social Security Number

END