

**EXCEL PARTNERS, INC.
401(k) PLAN**

**SUMMARY
PLAN DESCRIPTION**

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INTRODUCTION

This booklet is called a Summary Plan Description ("SPD") and is intended to be a brief description of the provisions of our **Plan**. Inside, you will find an explanation of your rights, obligations and benefits under our **Plan**.

Please read the description carefully to answer any questions you may have concerning our **Plan**. If you have questions after reading this booklet, please ask the **Plan Administrator**. You also have the right to read a copy of our **Plan** documents which are on file in the **Company's** office.

NOTE: **WE HAVE TRIED OUR BEST TO MAKE THIS A CLEAR AND UNDERSTANDABLE BOOKLET. HOWEVER, IF THERE IS ANY CONFLICT BETWEEN THIS BOOKLET AND THE ACTUAL PLAN DOCUMENT, OR BETWEEN THIS BOOKLET AND FEDERAL LAW, THE PLAN DOCUMENT OR FEDERAL LAW, AS APPROPRIATE, WILL CONTROL. THIS BOOKLET IS NOT INTENDED TO CHANGE OR EXTEND THE PROVISIONS OF THE PLAN.**

A. GENERAL INFORMATION ABOUT THE PLAN

As you read this booklet, you will find that some words are in **Bold Type**. These words have the special meanings that appear below:

COMPANY: The **Company** is the **Plan** sponsor. Our **Company** name, address, telephone number, and federal identification number are:

Excel Partners, Inc.
1177 Summer Street, Suite #3
Stamford, CT 06905
Telephone: (203) 978-6200
EIN: 06-1420255

COMPENSATION: This is your pay from the **Company** for the **Plan Year** as reported to the Internal Revenue Service on Form W-2 (excluding compensation paid prior to your entry into the **Plan**), and including any amount you defer as a pre-tax savings contribution and/or Roth contribution to the **Plan** or under certain other salary deferral arrangements. **Compensation** does not include reimbursements, expense allowances, deferred compensation, fringe benefits and any noncash compensation.

HOUR OF SERVICE: An **Hour of Service** is any hour for which you receive pay or are entitled to receive pay from the **Company** or any related company, including hours you are paid for vacation, holiday, illness, disability, layoff, jury or military duty, or leave of absence. However, no more than **501 Hours of Service** are credited to an employee on account of any single continuous period during which the employee is not actually working.

NORMAL RETIREMENT DATE: This is the date on which you reach age 65. You are not required to retire on this date, of course. This is just a definition in the **Plan** which establishes when your full account is payable to you.

PLAN: The name of the **Plan** is the "Excel Partners, Inc. 401(k) Plan." Its identification number is 001. The **Plan** is legally classified as a discretionary contribution retirement plan. The initial effective date of the **Plan** was January 1, 2005. The effective date of the recent revisions is, in general, January 1, 2009. The **Plan's** agent for service of legal process is the **Plan Administrator**. Legal process may also be served on the **Trustees**.

PLAN ADMINISTRATOR: The **Company** serves as the **Plan's Administrator**.

PLAN YEAR: This is the 12-month period from January 1 to December 31.

TRUSTEES: Gary W. Gilbert and Donald E. Hutchinson serve as the **Trustees**. All funds are held under the terms of a Trust Agreement that meets standards set by federal law. The **Trustees** may be reached at the **Company's** office.

B. PARTICIPATION IN THE PLAN

Q1 *HOW DO I BECOME ELIGIBLE TO BECOME A MEMBER OF THE PLAN?*

A1 If you were a member of our **Plan** prior to its revision, you will continue as a member of the **Plan**. All other employees will become eligible for membership when they meet both of the following requirements:

- (a) Minimum service -- 1 Year of Eligibility Service;
- (b) Minimum age -- 21 years old.

Any leased employees are not eligible to participate in the **Plan**.

Important Definition -- Year of Eligibility Service: A Year of Eligibility Service is a 12-month period measured from your date of hire in which you are credited with at least 1,000 **Hours of Service**. If you were paid for fewer than 1,000 hours in that period, you will be credited with a Year of Eligibility Service whenever you complete 1,000 hours or more in any **Plan Year** following your date of hire.

Q2 *WHEN DO I BECOME A MEMBER OF THE PLAN?*

A2 You automatically become a member of the **Plan** as of the January 1 or July 1 coinciding with or next following your completion of the above requirements.

Example: Marie is hired on September 18, 2009. She completes a Year of Eligibility Service on September 17, 2010. On December 18, 2010, she has her 21st birthday. Because she has satisfied the membership requirements, she will become a member of our **Plan** effective as of January 1, 2011.

Once you become a member of the **Plan**, you must fill out a form specifying whether or not you wish to make a pre-tax savings contribution and/or Roth contribution to the **Plan** and the amount of your contribution.

Reemployed Members: If you leave the **Company** while a member of the **Plan**, and then come back to work, you will become a member again on your return, and you can begin making pre-tax savings contributions and/or Roth contributions to the **Plan** immediately. You must fill out a form specifying the amount of your contribution.

C. CONTRIBUTIONS TO THE PLAN

Q3 WHAT TYPES OF CONTRIBUTIONS MAY I MAKE TO THE PLAN?

A3 Each **Plan Year** you have the option of making pre-tax savings contributions and after-tax Roth contributions to the **Plan** through payroll deduction. These contributions are explained in greater detail below. The tax rules affecting each type of contribution are complex. You may wish to discuss the tax rules with your tax advisor.

A. Pre-Tax Savings Contributions

Pre-tax savings contributions are traditional 401(k) salary deferral contributions that you may make to the **Plan**. You do not have to pay current federal income tax on the amount of your pre-tax savings contributions at the time your pre-tax savings contribution is made. When you receive a distribution of your pre-tax savings contributions, the contributions, including investment earnings, will be subject to income taxes.

B. Roth Contributions

Roth contributions are after-tax contributions that you may elect to make to the **Plan**. If you elect to make Roth contributions, the contributions you make to the **Plan** are subject to income taxes in the year of contribution. However, the contributions and, in most cases, the earnings on the contributions are not subject to income taxes when distributed to you. In order for the earnings to be distributed tax-free, there must be a *qualified* distribution of your Roth contributions.

In order to be a *qualified* distribution, the distribution must occur after one of the following: (1) your attainment of age 59½; (2) your disability; or (3) your death. *In addition*, the distribution must occur after the expiration of a 5-year participation period. The 5-year participation period is the 5-year period beginning in the calendar year in which you first make a Roth contribution to the **Plan** (or to another 401(k) plan or 403(b) plan if such amount was rolled over into the **Plan**) and ending on the last day of the calendar year that is five years later. For example, if you make your first Roth contribution under this **Plan** on November 30, 2008, your 5-year participation period will end on December 31, 2012. It is not necessary that you make a Roth contribution in each of the five years.

If a distribution of your Roth contributions is *not* a qualified distribution, the earnings distributed with the Roth contributions will be taxable to you at the time of distribution (unless you roll over the distribution to a Roth IRA or other 401(k) plan or 403(b) plan that will accept the rollover). In addition, in some cases, there may be a 10% excise tax on the earnings that are distributed.

Q4 ***HOW MUCH MAY I CONTRIBUTE TO THE PLAN?***

A4 Each **Plan Year**, you may make pre-tax savings contributions and Roth contributions through payroll deduction up to the maximum amount allowed by law, but in no event can the sum of your pre-tax savings contributions and Roth contributions be more than \$16,500 for 2009. Your pre-tax savings contributions and Roth contributions are added together in determining the maximum amount you can contribute for a **Plan Year**. (The limit for later years will be announced by the IRS.) If you would like to make a separate contribution election with respect to any cash bonuses paid to you during the year, please contact the **Plan Administrator**. Special IRS rules may place additional limitations on the amounts which may be contributed by certain "Highly Compensated Employees" (generally, shareholders or owners and their family members, and employees whose **Compensation** exceeds \$105,000 or such higher limit prescribed by the IRS). If these IRS rules affect you, we will make an appropriate adjustment to your contribution level before the end of the **Plan Year**, or the **Plan Administrator** will return to you the amount of your contribution which exceeds IRS limitations before the end of the next **Plan Year**. See Section H for information on the taxation of pre-tax savings contributions which are returned to you.

If you are age 50 before the end of the **Plan Year**, you will be able to make additional contributions, known as catch-up contributions, in the amount of \$5,500 for 2009.

Q5 ***HOW OFTEN CAN I CHANGE MY CONTRIBUTIONS?***

A5 You may stop making your pre-tax savings and/or Roth contributions at any time by providing advance written notice to the **Plan Administrator**. You may not resume making contributions until the January 1, April 1, July 1 or October 1 following your advance written notice to resume contributions.

You may elect to increase or decrease the amount of your contributions throughout each **Plan Year** effective on January 1, April 1, July 1 and October 1 by filing a written notice with the **Plan Administrator** prior to the effective date of such change.

Q6 ***WHAT EFFECT WILL MY CONTRIBUTION HAVE ON MY OTHER BENEFITS?***

A6 If you make a contribution to the **Plan**, we will not reduce any of your **Compensation**-related benefits.

You and the **Company** will continue to pay Social Security taxes on amounts you contribute to the **Plan** so that you will not lose your rights to any Social Security benefits.

If you make a contribution to the **Plan** or a **Company** contribution is made to your **Plan** account, you are an "active participant" and the amount of your deductible contribution to an individual retirement account (IRA) may be limited, depending on your income.

However, the amount of your contribution or **Company** contribution will not be counted against the deductible limit for IRA contributions.

Q7 ***HOW MUCH DOES THE COMPANY CONTRIBUTE TO THE PLAN?***

A7 Under the terms of the **Plan**, the **Company** will make safe harbor matching contributions (that match your pre-tax savings contributions and Roth contributions, including catch-up contributions as described in Q & A 4) on your behalf for the **Plan Year** beginning January 1, 2009. In addition, the **Company** has the option of making both discretionary matching contributions and discretionary profit-sharing contributions. These contributions are explained in greater detail below.

A. Safe Harbor Matching Contributions

For the **Plan Year** beginning January 1, 2009, the **Company** will make safe harbor matching contributions equal to: (i) 100% of your pre-tax savings contributions and Roth contributions that do not exceed 3% of your **Compensation**, and (ii) 50% of your contributions that exceed 3% of your **Compensation** but do not exceed 5% of your **Compensation**.

B. Discretionary Matching Contributions

Each **Plan Year**, the **Company** will determine whether a discretionary matching contribution will be made. The **Company** is not required to make a discretionary matching contribution for any **Plan Year**.

C. Discretionary Profit-Sharing Contributions

At the end of each **Plan Year**, the **Company**, in its discretion, may make a profit-sharing contribution. The **Company** is not required to make a discretionary profit-sharing contribution for any **Plan Year**.

Q8 ***HOW ARE THE COMPANY'S CONTRIBUTIONS TO THE PLAN ALLOCATED AMONG THE PLAN MEMBERS?***

A8 An account will be established for you under the **Plan** to which will be credited your yearly share of the **Company's** safe harbor matching contributions, and any discretionary matching and discretionary profit-sharing contributions.

A. Safe Harbor Matching Contributions

In order for your account to receive the **Company** safe harbor matching contributions for the **Plan Year** beginning January 1, 2009, you must have made pre-tax savings contributions and/or Roth contributions for the **Plan Year**.

B. Discretionary Matching Contributions

In order for your account to receive a share of the **Company's** discretionary matching contribution for a **Plan Year**, you must have made a pre-tax savings contribution and/or Roth contribution for the **Plan Year**.

C. Discretionary Profit-Sharing Contributions

In order for your account to receive a share of the **Company's** discretionary profit-sharing contribution for a **Plan Year**, you must be employed on the last day of the **Plan Year** (December 31) and have completed at least 1,000 **Hours of Service** during the **Plan Year**.

However, your account will receive a share of the **Company's** discretionary profit-sharing contribution if you were not employed on the last day of the **Plan Year**, regardless of your **Hours of Service**, if you left the **Company** within such **Plan Year** because of:

- (a) your retirement (see Q & A 13);
- (b) your death (see Q & A 12); or
- (c) your total and permanent disability (see Q & A 11).

You are not required to make pre-tax savings contributions or Roth contributions to be eligible for a share of the **Company's** discretionary profit-sharing contribution.

If a discretionary profit-sharing contribution is made for a **Plan Year**, the following two-step allocation formula is used:

- (1) Because Social Security benefits are currently paid only up to a maximum level of pay based upon F.I.C.A. coverage, Federal law enables the **Plan** to provide an additional allowance for each member's pay in excess of Social Security coverage. In this way, we anticipate that all employees can have an opportunity to retire at the same percentage of pay when both the **Plan** benefits and Social Security benefits (for which the **Company** also contributes) are combined. Therefore, each member who earned in excess of the F.I.C.A. wage base for the **Plan Year** will be allocated a percentage of his/her **Compensation** in excess of the wage base. And, all **Plan** members will be allocated a percentage of their total **Compensation**. This is the percentage that accounts for the old age insurance portion of the Social Security Tax. The maximum percentage is 5.7%.

Example: John's **Compensation** for the 2009 **Plan Year** = \$110,000. The Social Security Wage Base for 2009 = \$106,800. For the 2009 **Plan Year**, the **Company** makes the maximum permissible contribution under this step. Therefore, John's allocation = 5.7% of any "excess compensation" (defined as **Compensation** above \$106,800) plus 5.7% of his total **Compensation**.

5.7% (\$110,000 - \$106,800)	=	\$ 182.40
<u>5.7% (\$110,000)</u>	=	<u>\$6,270.00</u>
His allocation	=	\$6,452.40

- (2) The balance of the **Company's** discretionary profit-sharing contribution, after deducting the amount allocated in step (1) above, will be allocated among all **Plan** members in proportion to their **Compensation** for the **Plan Year**.

Example: John is an eligible member whose **Compensation** is 2% of the total **Compensation** of all **Plan** members. Therefore, he is entitled to 2% of the balance of the **Company's** contribution for the year.

See the Appendix for a more detailed explanation of how the **Company's** discretionary profit-sharing contributions are allocated.

D. VESTING OF CONTRIBUTIONS

Q9 **HOW MUCH OF MY ACCOUNT AM I ENTITLED TO WHEN I LEAVE THE COMPANY?**

A9 You are always 100% vested in your pre-tax savings contributions, Roth contributions, and safe harbor matching contributions. A "vested" benefit can never be taken away from you or forfeited.

If your employment with the **Company** terminates on or after your **Normal Retirement Date**, you will be 100% vested in your entire account. Death or permanent and total disability (as defined in Q & A 11) will also mean you are vested 100% in your entire account, if these conditions occur when you are an employee.

If your employment with the **Company** terminates for reasons other than those listed above, the **Plan's** vesting schedule gives you a right to a part or all of your account derived from **Company** discretionary matching contributions and discretionary profit-sharing contributions depending on how long you have worked for us, as follows:

<u>Years of Vesting Service</u>	<u>Vested Percentage</u>
Less than 2 years	0%
2 years but less than 3	20%
3 years but less than 4	40%
4 years but less than 5	60%
5 years but less than 6	80%
6 years or more	100%

Any part of your account to which you are not entitled will be forfeited. Forfeited **Company** contributions will be used to reduce any **Company** contributions for the **Plan Year** or may be used to pay **Plan** expenses.

Important Definition -- Year of Vesting Service: A Year of Vesting Service is a **Plan Year** in which you have been credited with at least 1,000 **Hours of Service**, excluding years prior to January 1, 2005, the original effective date of the **Plan**.

Q10 **WHAT ARE THE RULES IF MY EMPLOYMENT TERMINATES PRIOR TO RETIREMENT?**

A10 For purposes of the **Plan**, your participation in the **Plan** is terminated when you have a 1-year Break in Service.

A 1-year Break in Service is a **Plan Year** in which you are credited with less than 501 **Hours of Service** and are not on an approved **Company** leave of absence granted in writing.

If you take a leave of absence on account of pregnancy, birth, or adoption of your child, the **Plan Administrator** will credit you with up to 501 **Hours of Service** in order to prevent you from incurring a 1-year Break in Service.

If you stop working for the **Company** either because you quit or are discharged before your retirement date, your account may be forfeited according to the following rules:

If you terminate employment, any portion of your **Company** contribution account in which you are not vested will be forfeited unless you return to employment with the **Company** prior to the occurrence of five consecutive 1-year Breaks in Service. Also, you must repay any amounts previously distributed to you. Repayment must be made within 5 years of your return to employment.

If you return to work from military leave in the uniformed services on or after December 12, 1994, you will be treated as not having incurred a 1-year Break in Service for purposes of the **Plan**.

E. DISTRIBUTION OF BENEFITS

Q11 *WHAT HAPPENS IF I BECOME DISABLED?*

A11 If your employment with the **Company** terminates as a result of a "permanent and total disability," you may request that payment of your benefits begin after the **Plan Administrator** has determined that you are permanently and totally disabled. Payments will commence approximately 60 days after your request is received by the **Plan Administrator**. You may choose to delay payment of your benefits, but not beyond the date specified under Q & A 13.

"Permanent and total disability" means a physical or mental condition that can be expected to last for at least 12 months or result in death. It must be serious enough to prevent you, in the opinion of the **Plan Administrator** and based upon appropriate medical advice and examination, from engaging in any substantial or gainful economic activity. Receipt of a Social Security disability pension will be proof of permanent and total disability.

Q12 *IS THERE A DEATH BENEFIT?*

A12 If you die while employed by the **Company**, your beneficiary will be entitled to receive the full value of your account (including the nonvested portion) under the **Plan** as a death benefit.

If you die following termination of employment with the **Company**, the vested value of your account will be paid to your beneficiary.

If you are married at the time of your death, your spouse will be the beneficiary of the death benefit, unless you designate another beneficiary on a form to be furnished to you by the **Plan Administrator**. IF YOU WISH TO DESIGNATE A BENEFICIARY OTHER THAN YOUR SPOUSE, YOUR SPOUSE MUST CONSENT TO WAIVE ANY RIGHT TO THE DEATH BENEFIT. YOUR SPOUSE'S CONSENT MUST BE IN WRITING AND WITNESSED BY A NOTARY PUBLIC OR A PLAN REPRESENTATIVE.

Benefits will be paid in a single sum payment.

However, if any portion of your account consists of an amount transferred from a pension plan, and if no valid waiver signed by your spouse is in effect, the death benefit payable to your spouse will be in the form of a survivor annuity. This survivor annuity will provide monthly payments to your spouse for his/her lifetime. The amount of monthly payments will depend upon the value of your account at the time the payments begin. The **Plan Administrator** may, however, distribute the benefit in an alternative method, such as a single sum, provided your spouse agrees in writing to an alternative form.

If, however,

- (a) your spouse has validly waived any right to the death benefit in the manner outlined above,
- (b) your spouse cannot be located, or
- (c) you are not married at the time of your death,

then your death benefit will be paid to the beneficiary of your choosing. You may designate such beneficiary on a form to be supplied to you by the **Plan Administrator**. If you do not designate a beneficiary and you are not married, the **Plan** provides that your beneficiary will be your children, including adopted children, your surviving parents in equal shares or, if none, your estate.

Because your spouse would have certain rights in the death benefit, you should immediately report any change in your marital status to the **Plan Administrator**.

Q13 ***WHAT HAPPENS WHEN I RETIRE?***

A13 If you retire on or after your **Normal Retirement Date**, payments will commence approximately 60 days after you retire, unless you otherwise elect in writing to defer receipt of your benefits.

If you choose, you may delay payment of your benefits. However, distribution of your **Plan** benefits must begin no later than the April 1st following the later of (1) the calendar year in which you attain age 70½ or (2) the calendar year in which you retire. Certain shareholders or owners and their family members, however, must generally begin to receive their **Plan** benefits no later than the April 1st following the calendar year in which they attain age 70½, even if still employed by the **Company**.

Q14 ***WHAT HAPPENS IF MY EMPLOYMENT TERMINATES FOR OTHER REASONS?***

A14 If you terminate employment with the **Company** before your **Normal Retirement Date**, for reasons other than death or disability, and elect to receive payment of your vested account, payment to you will be made approximately 60 days following your date of termination. If at the time of such termination of employment, the amount of your vested account is \$1,000 or less, the **Plan Administrator** may distribute your vested account to you without your consent.

Q15 ***HOW WILL MY ACCOUNT BE PAID?***

A15 Your account will be paid in a single sum payment.

However, if any portion of your account consists of any amounts transferred from a pension plan, and if you are married on the date your benefits are to begin, your account will automatically be paid to you in a 50% joint and survivor annuity, unless you and your spouse otherwise elect. This means that if you die and are survived by a spouse, your spouse will receive a monthly benefit for the remainder of his/her life equal to 50% of the benefit you were receiving at the time of your death.

If you wish to waive the joint and survivor form of payment, you may do so during the 180-day period ending on the date the annuity is to begin. However, YOUR SPOUSE MUST CONSENT IN WRITING TO THE WAIVER IN THE PRESENCE OF A PLAN OFFICIAL OR A NOTARY PUBLIC. You may revoke any waiver. The **Plan Administrator** will provide you with forms to make these elections. Because your spouse participates in these elections, you must immediately inform the **Plan Administrator** of any change in your marital status.

If you and your spouse elect not to take a joint and survivor annuity or if you are not married when your benefits are scheduled to begin, you may choose an alternative form of payment.

Regardless of the form of payment you receive, its value to you will be the same value as each alternative form of payment.

F. INVESTMENT OF YOUR ACCOUNTS

Q16 *HOW DO I KNOW THE TOTAL AMOUNT OF MY BENEFIT?*

A16 The **Company** contributions are not paid to you directly. If they were, you would be taxed on the money right now. Instead, they are contributed to the **Plan's Trustees**, who hold them on your behalf. A separate bookkeeping account is maintained by the **Plan Administrator** to keep track of your share of the contributions over the years. Also, each account will be charged with its share of the **Plan's** investment gains and losses. You will receive periodic statements showing:

- (1) your share of the **Plan's** assets at the beginning of the period;
- (2) changes due to investment results during the period;
- (3) your share of **Company** contributions, if any, for the period;
- (4) your pre-tax savings contributions and Roth contributions, if any, during the period; and
- (5) the ending balance.

Q17 *HOW IS THE PLAN'S MONEY INVESTED?*

A17 The **Company** offers you a choice of investment funds for your account. The **Plan** is intended to constitute a plan as described in Section 404(c) of ERISA and Title 29 of the Code of Federal Regulations Section 2550.404c-1, which relieves the **Plan** fiduciaries of any liability for any losses that are the direct and necessary result of investment instruction given by any member of the **Plan**.

In deciding which fund to choose, there are important factors to keep in mind. The investment objectives of each fund vary and so do the risks involved. Before selecting how you want your account to be invested, you should consider how much risk you want to take.

The **Plan Administrator** will provide you with detailed information about the available investments and the manner of making and changing your investment elections.

The **Trustees** reserve the right to change the number and types of funds available for investment options. You will be informed of any changes.

The **Plan's** investment company may impose restrictions on your ability to change your investment elections under the **Plan**. The restrictions, if imposed by the investment company, concern the timing and frequency of changes to your investment elections under the **Plan**. If you have any questions concerning possible restrictions on your ability to change your investment elections, please contact the investment company.

G. YOUR ERISA RIGHTS AND OTHER IMPORTANT INFORMATION

Q18 *WHAT ARE MY RIGHTS UNDER THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 (ERISA)?*

A18 As a member in the **Plan**, you are entitled to certain rights and protection under the Employee Retirement Income Security Act of 1974 (ERISA). ERISA provides that all **Plan** members shall be entitled to:

- (1) Examine, without charge, at the **Plan 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;
- (2) Obtain, upon written request to the **Plan Administrator**, copies of documents governing the operation of the **Plan** and copies of the latest annual report (Form 5500 Series) and updated Summary Plan Description. The **Plan Administrator** may make a reasonable charge for the copies;
- (3) Receive a summary of the **Plan's** annual financial report. The **Plan Administrator** is required by law to furnish each member with a copy of this summary annual report;
- (4) Obtain a statement telling you (a) the amounts credited to your account under the **Plan** and (b) what your benefits would be if you stop working under the **Plan** now. This statement is not required to be given more than once a year. The **Plan** must provide the statement free of charge.

In addition to creating rights for **Plan** members, ERISA imposes duties upon the people who are responsible for the operation of the **Plan**. The people who operate your **Plan**, called "fiduciaries," have a duty to do so prudently and in the interest of you and other **Plan** members and beneficiaries. No one, including the **Company**, 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 **Plan Administrator** to provide the materials and pay you up to \$110 a day until you receive the materials, unless the materials were not sent because of reasons

beyond the control of the **Plan 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. If it should happen that **Plan** 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 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. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim frivolous.

If you have any questions about your **Plan**, you should contact the **Plan 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 **Plan Administrator**, you should contact the nearest office of the Employee Benefits Security Administration, U.S. Department of Labor, listed in your 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.

Q19 ***HOW DO I MAKE A CLAIM FOR BENEFITS?***

A19 Be sure that any request is in writing and delivered to the **Plan Administrator**. You will be required to complete and submit a number of forms.

We hope there will never be a disagreement as to the amount owed to you under the **Plan**. However, if there is a disagreement, you must follow the **Plan's** claims procedure or you may forfeit certain legal rights to contest the decision. You must file any request for benefits in writing. You may appoint an authorized representative to act on your behalf for the purposes of filing a claim and seeking a review of a denied claim, provided that you notify the **Plan** in advance of the name, address and telephone number of the authorized representative. Before filing your request, you or your authorized representative may wish to examine any **Plan** records regarding your claim. This examination may take place only during the **Plan's** regular working hours.

If your request for benefits is denied, in whole or in part, the **Plan Administrator** will provide you a written response so notifying you, within 90 days of receipt of your request; provided, however, that an extension of time not exceeding 90 days will be available if special circumstances require an extension of time for processing your request. If so, notice of such extension, indicating what special circumstances exist and the date by which a final decision is expected to be rendered, will be furnished to you before the initial 90-day period expires.

The notice of denial will set forth in a manner reasonably expected to be understood by you: (i) the specific reason or reasons for the denial; (ii) specific reference to pertinent **Plan** provisions on which the denial is based; (iii) 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; (iv) appropriate information as to the steps to be taken if you wish to submit your claim for review; and (v) a statement explaining your rights to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination after the review (as discussed below).

Upon request and free of charge, you or your duly authorized representative will be permitted to review relevant documents and submit issues and comments in writing. A document, record or other information is "relevant" if it: (i) was relied upon in making the benefit determination; (ii) was submitted, considered or generated in the course of making the benefit determination, without regard to whether it was relied upon in making the benefit determination; or (iii) demonstrates compliance with the administrative processes and safeguards required under federal law.

Within 60 days after receipt of such notice of denial, you or your authorized representative may request, by mailing or delivery of written notice to the **Plan**, a review by the **Plan Administrator** of the decision denying your claim. Such petition for review shall state in clear and concise terms the reason or reasons for disputing the denial and shall be accompanied by any pertinent documentary material not already furnished. The review will take into account all comments, documents, records and other information submitted by you relating to the claim, without regard to whether such information was submitted or considered in the initial benefit determination.

After such review, the **Plan Administrator** will determine whether the denial of your claim was correct and will notify you in writing of its determination within a reasonable period of time, but not later than 60 days after the receipt of your request for review by the **Plan Administrator**, provided, however, that an extension of time not exceeding 60 days will be available if special circumstances require an extension of time for processing the appeal. If so, notice of such extension, indicating what special circumstances exist and the date by which a final decision is expected to be rendered, will be furnished to you before the initial 60-day period expires.

You will be advised of the **Plan Administrator's** decision in writing. The notice of denial will be set forth in a manner reasonably expected to be understood by you: (a) specific reasons for the decision and specific references to the pertinent **Plan** provisions on which the decision is based; (b) 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; and (c) a statement of your right to bring a civil action under Section 502(a) of ERISA following an adverse benefit determination on review.

If you fail to request review within the 90-day period, it shall be conclusively determined for all purposes of this **Plan** that the denial of such claim by the **Plan Administrator** is correct.

If the **Plan Administrator's** determination is favorable to you, it shall be binding and conclusive. If such determination is adverse to you, it shall be binding and conclusive unless you or your authorized representative notifies the **Plan Administrator** within 90 days after the mailing or delivery to you by the **Plan Administrator** of its determination, that you intend to institute legal proceedings challenging the determination of the **Plan Administrator**, and you or your authorized representative actually institutes such legal proceeding within 180 days after such mailing or delivery.

The denial of an application or claim as to which the right of review has been waived or the decision of the **Plan Administrator** with respect to a petition for review, shall be final and binding upon all parties and any person claiming under you, subject only to judicial review.

However, the best way to avoid this type of problem is to make sure you understand the **Plan** and the way it works at this time. Remember, if you have questions, the **Plan Administrator** will assist you, and will refer any questions it is unable to answer to the professional benefit consultants who assist in administering the **Plan**.

Q20 ***WHAT HAPPENS IF THE PLAN BECOMES TOP-HEAVY?***

A20 Under a complicated set of federal rules and mathematical calculations set out in the **Plan**, the **Plan** may be a Top-Heavy Plan for any **Plan Year**. Simply stated, a Top-Heavy Plan is one where a specified percentage of the contributions or benefits have been allocated to Key Employees. Key Employees, as defined by law, are generally owners, officers, and shareholders of the **Company**. The **Plan Administrator** each year is responsible for determining whether the **Plan** is a Top-Heavy Plan.

If the **Plan** is a Top-Heavy Plan in any year, certain **Plan** provisions concerning minimum contributions will apply.

Q21 ***WHAT HAPPENS IF THE PLAN IS AMENDED OR TERMINATED?***

A21 The **Company** reserves the right, of course, to amend the **Plan** or to terminate it. No amendment can reduce the amount in your account or eliminate any of the benefit form options offered in the **Plan**.

If the **Plan** terminates, you are 100% vested in your account. The **Plan** is exclusively for the benefit of its members and, therefore, money cannot go back to the **Company** because of the **Plan's** termination.

Upon termination of the **Plan**, we will either distribute your benefits to you as soon as administratively possible (with the approval of the Internal Revenue Service) or transfer your benefits to another plan sponsored by the **Company**.

Q22 *IS THERE EVER A TIME WHEN BENEFITS CAN BE LOST OR DENIED?*

- A22**
- (1) The value of your account depends on the value of **Plan** investments. This is why your account must be invested carefully.
 - (2) Money will not be paid to you from the **Plan** while you are employed by the **Company**, unless you take a hardship withdrawal or you have attained at least age 59½.
 - (3) There are no legal guarantees that the **Company** will make contributions each year.
 - (4) The Pension Benefit Guaranty Corporation, a federal agency which insures defined benefit plans, does not insure this type of plan. The government has exempted defined contribution plans from such insurance since all contributions to the **Plan** go directly into your account and if the **Company** goes out of business or the **Plan** terminates you are 100% vested in your account.
 - (5) Generally, your account balance cannot be assigned or alienated. This means that your account balance cannot be sold, given away or otherwise transferred. In addition, your creditors may not attach or garnish or otherwise demand payment from your account. However, there is an exception to this general rule. This exception applies to "qualified domestic relations orders." The **Plan Administrator** is required by law to recognize these orders which are defined as a decree or order issued by a court that obligates you to pay child support or alimony. In addition, a qualified domestic relations order may allocate a portion of your account balance to your spouse, former spouse, child or other dependent. If a qualified domestic relations order is received by the **Plan Administrator**, all or a portion of your account balance may be used to satisfy the obligation. The **Plan Administrator**, in accordance with procedures set forth in the law, shall determine the validity of any domestic relations order it receives and shall inform you if it has received one affecting you.

H. INCOME TAX CONSIDERATIONS

Q23 *WHAT ARE THE TAX CONSEQUENCES WHEN I AM PAID PLAN BENEFITS?*

A23 The **Company's** contributions to your account and all investment earnings are tax deferred until actually paid to you from the **Plan**.

Whenever you receive a distribution from your **Plan**, other than certain distributions of your Roth contributions (see Q & A 3), the distribution will normally be subject to income taxes. You may, however, be able to reduce or defer the tax due on your distribution.

Special Tax Rules: Federal law requires that the **Plan Administrator** provide anyone who receives a distribution from a retirement plan with a written explanation of the rules regarding the taxation of those distributions. The **Plan Administrator** will provide you with a written explanation of those rules when you receive benefit payments from the **Plan**.

If IRS rules require that you receive a return of your pre-tax savings contributions after the end of the **Plan Year**, the amount of such contributions and the earnings thereon are treated, in general, for tax purposes, as received by you in the calendar year in which you made the contribution.

The Internal Revenue Code provides several complex rules relating to the taxation of the amounts you may receive in a distribution. **YOU SHOULD PROMPTLY CONSULT A TAX ADVISOR IN DECIDING WHAT YOU SHOULD DO WITH RESPECT TO ANY DISTRIBUTION.**

I. AUXILIARY FEATURE

Q24 CAN I MAKE WITHDRAWALS FROM THE PLAN WHILE I AM EMPLOYED?

A24 Hardship Withdrawals: If you experience severe hardship for which other personal funds are not available, the **Plan** will allow you to withdraw the amount which you need for that emergency. The maximum hardship withdrawal is limited the amount in your 100% vested account consisting of pre-tax savings contributions, exclusive of earnings on such contributions.

You may not withdraw amounts attributable to your Roth contributions, if any, or to **Company** contributions on account of a financial hardship situation.

Hardship withdrawals will be allowed for:

- (1) Costs directly related to the purchase of your primary residence (excluding mortgage payments).
- (2) Unreimbursed medical expenses for you, your spouse or your dependent or unreimbursed expenses that are necessary so that you, your spouse or your dependent could obtain medical care.
- (3) Tuition, educational fees, and room and board expenses for the next twelve months of post-secondary education for you, your spouse or your dependent.
- (4) Amounts necessary to prevent your eviction from your primary residence or to prevent foreclosure on your primary residence.
- (5) Payments for burial or funeral expenses for your deceased parent, spouse, child or other dependent.
- (6) Expenses for the repair of damage to your primary residence that would qualify for a casualty deduction under the Internal Revenue Code.

Hardship withdrawals may not be paid back to the **Plan**. You will have to pay current income taxes on amounts you withdraw, and possibly a 10% penalty tax for withdrawals prior to age 59½. To qualify for a hardship withdrawal, you will be required to:

- (a) provide documented proof of the hardship on an application form provided by the **Plan Administrator**; and
- (b) suspend your right to make pre-tax savings contributions and Roth contributions for 6 months and possibly limit, according to IRS rules, the amount which you may contribute in the future.

In-Service Distributions

Upon attaining age 59½, you may withdraw all or a portion of your 100% vested account if you are still employed by the **Company**. To do so, you must make a written request with the **Plan Administrator** at least 30 days before you wish to withdraw the funds.

However, you may not take an in-service distribution from the portion of your account attributable to your Roth contributions, if any.

J. ADMINISTRATIVE FEES AND EXPENSES

The **Company's** administrative procedures under the **Plan** permit the payment of **Plan** expenses to be made from **Plan** assets. If the **Company** does not pay these expenses, then expenses paid from **Plan** assets will generally be allocated among the accounts of all members of the **Plan**.

However, there are certain expenses that may be paid just from your account. These are expenses that are specifically incurred by, or attributable to, you. The expenses may be paid directly from your account (and not the accounts of other **Plan** members) because they are directly related to your benefit under the **Plan**.

The expenses that are paid directly from an individual **Plan** member's account will be those expenses that are set forth on the specific investment company forms. In addition, your account may be charged for expenses to process court orders that require payment to your ex-spouse or a dependent in divorce proceedings.

The **Company** or investment company, from time to time, may change the manner in which expenses are allocated.

APPENDIX

Sample Discretionary Profit-Sharing Contribution Allocation

1. Assume the **Plan** has three active members and their **Compensation** for the **Plan Year** is as follows:

Mary:	\$34,200
Bob:	\$36,000
Ann:	<u>\$109,800</u>
 TOTAL	 \$180,000

2. The approximate percentage of each member's **Compensation** compared to the total **Compensation** of all members is figured as follows:

	<u>\$34,200</u>			
Mary:	\$180,000	=		19%
	<u>\$36,000</u>			
Bob:	\$180,000	=		20%
	<u>\$109,800</u>			
Ann:	\$180,000	=		61%

3. (a) The **Plan** provides that any **Company** discretionary profit-sharing contribution will be allocated first on the basis of members' "excess compensation" plus all **Compensation**. "Excess compensation" is **Compensation** in excess of Social Security F.I.C.A. coverage. (Note: Social Security F.I.C.A. coverage is subject to change from year to year. For this example, assume the level is \$106,800, which is the level in effect during 2009). The "excess compensation" of the members is figured as follows:

	<u>Excess Compensation</u>		
Mary:	0		
Bob:	0		
Ann:	\$109,800 - \$106,800	=	\$3,000

- (b) The maximum amount that may be allocated to any member in this step of the allocation is an amount equal to 5.7% of the sum of his/her "excess compensation" plus all **Compensation**. Therefore, the amounts to be allocated in this step are:

Mary:	5.7%	(\$0 + \$34,200)	=	\$1,949.40
Bob:	5.7%	(\$0 + \$36,000)	=	\$2,052.00
Ann:	5.7%	(\$3,000 + \$109,800)	=	\$6,429.60

4. (a) The amount of any **Company** discretionary profit-sharing contribution for the year remaining after Step 3 above will be allocated among the accounts of all the active members based on their percentages of **Compensation** determined in Step 2 above.

- (b) For example, if the **Company's** contribution for the year is \$15,000.00, it will be allocated as follows:

\$15,000.00	Total contribution to be allocated
<u>- \$10,431.00</u>	Allocated to members according to Step 3 above
\$ 4,569.00	To be allocated based on Compensation determined in Step 2 above, as follows:

Mary:	19%	x	\$4,569.00	=	\$ 868.11
Bob:	20%	x	\$4,569.00	=	\$ 913.80
Ann:	61%	x	\$4,569.00	=	<u>\$ 2,787.09</u>
					\$ 4,569.00

- (c) Therefore, the total amounts allocated to each member for the year will be:

Mary:	\$1,949.40	+	\$868.11	=	\$ 2,817.51
Bob:	\$2,052.00	+	\$913.80	=	\$ 2,965.80
Ann:	\$6,429.60	+	\$2,787.09	=	<u>\$ 9,216.69</u>
Total:					\$15,000.00