

**DRILLING 401(K) PLAN**

**SUMMARY PLAN DESCRIPTION**

November 16, 2016

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## **INTRODUCTION**

U & R Drilling Inc. (the "Employer") established the S & P Drilling 401(k) Plan (the "Plan") effective January 1, 2015. This Summary Plan Description describes the Plan as restated effective November 16, 2016.

This revised Summary Plan Description supersedes all previous Summary Plan Descriptions. Although the purpose of this document is to summarize the more significant provisions of the Plan, the Plan document will prevail in the event of any inconsistency. In addition, the terms of the Plan cannot be modified by written or oral statements made to you by the Plan Administrator or other personnel.

The following special effective dates apply to some features of the Plan: Elective deferral contributions were added effective as of March 1, 2015.

## **ELIGIBILITY FOR PARTICIPATION**

### **Eligible Employee**

You are an "Eligible Employee" if you are employed by S & P Drilling Inc. or any affiliate who has adopted the Plan. For Safe Harbor Contributions, the term "Eligible Employee" for the exclusion of classes of employees shall have the same meaning as Elective Deferrals. However, you are not an "Eligible Employee" if you are a member of any of the following classes of employees:

For purposes of Elective Deferral Contributions and Safe Harbor Matching Contributions, any employee who is included in a unit of employees covered by a collective bargaining agreement, if retirement benefits were the subject of good faith bargaining, and if the collective bargaining agreement does not provide for participation in this Plan.

For purposes of Elective Deferral Contributions and Safe Harbor Matching Contributions, any employee who is a non-resident alien who received no earned income which constitutes income from services performed within the United States.

The term "Eligible Employee" will not include: Employees acquired in a 410(b)(6)(c) transaction.

### **Elective Deferral Contributions and Safe Harbor Matching Contributions**

You will become eligible to make Elective Deferral Contributions and receive Safe Harbor Matching Contributions on the first day of the calendar month, coincident with or next following the date you attain age 21 and you complete 3 months of service, measured from your date of hire, provided that you are an Eligible Employee at the end of that period.

### **Computing Service**

With respect to eligibility to make Elective Deferral Contributions and to receive Matching Contributions and safe harbor Matching Contributions only, "Year of Eligibility Service" means a 12-month period of time beginning on your employment commencement date. In order to determine the number of whole Years of Eligibility Service, nonsuccessive periods of service and less than whole year periods of service will be aggregated on the basis that 12 months of service (30 days are deemed to be a month in the case of the aggregation of fractional months) or 365 days of service are equal to a whole year of service. You will also receive credit for any period of severance of less than 12 consecutive months. If less than one Year of Eligibility Service is required, such service will be determined by substituting such period for "12 months" and

"Year" where they appear in this paragraph. To illustrate how to determine eligibility using this elapsed time method, where service is determined from date of hire, please follow this example:

ABC Company requires employees to have one year of service under the elapsed time method. Mr. Brown is hired on April 1. He terminates employment with ABC Company on June 15 of the same year and is subsequently rehired on November 30. His first year of service is determined by looking at the 12-month period beginning on April 1, his original hire date, and ending on the following March 31. Even though he was not continuously employed with ABC Company during this period, he was employed as of the beginning and end of the Eligibility Computation Period so he has a satisfied the one year service requirement under the elapsed time method.

All eligibility service with the Employer is taken into account.

If you make or receive eligible contributions you will be a "Participant" in the Plan.

## **CONTRIBUTIONS TO THE PLAN**

### **Account**

"Account" means all of the contributions, of whatever type, made to the Plan for a Participant, including the earnings and losses on those contributions.

### **Elective Deferral Contributions**

You may elect to reduce your Compensation (defined below) and make a contribution to the Plan on a pre-tax basis. These pre-tax contributions are known as Elective Deferral Contributions. You may elect to defer up to 100% of your Compensation on a pre-tax basis. Federal law also limits the amount you may elect to defer under this Plan and any other retirement plan permitting Elective Deferral Contributions during any calendar year (\$18,000 in 2017). However, if you are age 50 or over, you may defer an additional amount, called a "Catch-up Contribution", of up to \$6,000 (in 2017). The Internal Revenue Code may further restrict Elective Deferral Contribution elections by "highly compensated" Participants.

You may elect to start, increase or reduce your elections to contribute to the Plan effective as of the first day of the Plan Year and the first day of the fourth, seventh and tenth month of the Plan Year. You may totally suspend your elections at any time.

The Plan Administrator may establish rules regarding the manner in which your elections are made. The rules may also require that certain advance notice be given of any election. Your election regarding Elective Deferral Contributions is only effective for Compensation you will receive in the future. The Plan Administrator may also reduce or totally suspend your election if the Plan Administrator determines that your election may cause the Plan to fail to satisfy any of the requirements of the Internal Revenue Code.

### **Roth Contributions**

The Plan allows Elective Deferral Contributions to be made as Roth Contributions. Roth Contributions are Elective Deferral Contributions that are made in the same manner as your pre-tax Elective Deferral Contributions except that Roth Contributions are made to the Plan on an after-tax basis. If certain requirements are met, a "qualified distribution" from your Roth Contribution Account in the Plan will not be taxed. Please note, however, that Roth Contributions are not "Matched Employee Contribution". The Employer will match contributions you make as Roth Elective Deferral Contributions.

You must designate how much you would like to contribute on a pre-tax basis (normal Elective Deferral Contribution) and how much you would like to contribute as an after-tax Roth Contribution. You are not required to make any Roth Contributions. You may continue to designate all of your Elective Deferral Contribution elections as normal pre-tax contributions.

The sum of your Roth Contributions and regular Elective Deferral Contributions may not exceed the annual limit on regular Elective Deferral Contributions mentioned above.

As was mentioned above, a "qualified distribution" of your Roth Contributions (and earnings) is not taxable. A "qualified distribution" must be made more than five years after the first Roth Contribution is made and must meet at least one of the following requirements:

- (i) the distribution must be made after you attain age 59-1/2;
- (ii) the distribution must be made to your beneficiary after your death; or
- (iii) the distribution must be made on account of your disability.

Please note that Roth Contributions are not suitable for everyone. Please consult with your tax advisor before making any Roth Contributions to the Plan.

#### Amount of Safe Harbor Matching Contributions

The Employer will make a Matching Contribution on your behalf if you make a "Matched Employee Contribution" during the Plan Year. A "Matched Employee Contribution" is any Non-Roth Elective Deferral Contribution or Catch-up Contribution that you may make.

If you make a "Matched Employee Contribution" the Employer will contribute a safe harbor Matching Contribution to your Matching Contribution Account in an amount equal to: (i) 100% of the Matched Employee Contributions that are not in excess of 3% of your Compensation, plus (ii) 50% of the amount of the Matched Employee Contributions that exceed 3% of your Compensation but that do not exceed 5% of your Compensation.

#### Allocation of Matching Contributions

Matching Contributions will be made to the Plan and allocated to the Matching Contribution Accounts of Participants as soon as administratively feasible after the end of each pay period.

The Internal Revenue Code may also further restrict Matching Contributions for highly compensated employees.

#### Qualified Non-Elective Contributions

In addition to the contributions described above, the Employer may make additional Qualified Non-Elective Contributions for the benefit of such Participants determined at the discretion of the Employer.

## Rollovers

The Plan may accept a Rollover Contribution made on behalf of any Eligible Employee who has met the age and service requirements of the Plan. In general, any eligible rollover distribution will be accepted by the Plan; however, the Plan Administrator may establish procedures that regulate the method by which Rollover Contributions will be accepted.

## Military Service

If you serve in the United States armed forces and must miss work as a result of such service, you may be eligible to receive contributions, benefits and service credit with respect to any qualified military service. In addition, your survivors may be eligible to receive benefits or service credit if you die while performing qualified military service.

## Limits on Contributions

The amount that may be contributed to the Plan on your behalf in any year is limited to a fixed dollar amount (\$54,000 in 2017). In addition, contributions cannot exceed 100% of your total Compensation.

## Compensation

"Compensation" means wages that are shown as taxable wages on your IRS Form W-2. For any self-employed individual, Compensation will mean earned income. Compensation will include wages paid during any period in which you are performing service in the uniformed services while on active duty for a period of more than 30 days that represents all or a portion of the wages you would have received if you were performing service for the Employer. For purposes of Elective Deferral Contributions and Safe Harbor Matching Contributions, Compensation will also include any amount you elect to defer on a tax-preferred basis to any Employer benefit plan. For purposes of Safe Harbor Matching Contributions and Qualified Non-Elective Contributions, Compensation will include only that compensation which is actually paid to you by the Employer during that part of the Plan Year that you are eligible to participate in the Plan. Compensation will exclude Bonuses for all Plan purposes.

No more than \$270,000 (in 2017) of Compensation may be taken into account in determining your benefits under the Plan.

## **VESTING**

### Elective Deferral Account, Rollover Contribution Account, Qualified Non-Elective Contribution Account and Safe Harbor Matching Contribution Account

You are always fully (100%) vested in your Elective Deferral Account, Rollover Contribution Account, Qualified Non-Elective Contribution Account and Safe Harbor Matching Contribution Account.

## **DISTRIBUTIONS**

### Commencement of Distributions

Termination of Employment. You are entitled to receive a distribution from your Account after you terminate employment. This includes termination due to Disability. The distribution will start at the time specified in the section titled "Timing and Form of Payment" below.

**Late Retirement.** If you continue working for the Employer after your Normal Retirement Age, your participation under the Plan will continue, and your benefits will begin following the date you terminate employment. You may elect to have the Plan Administrator begin the distribution of your benefit at any time after reaching your Normal Retirement Age (even if you are still working) by providing the Plan Administrator with a written election that you want your benefits to begin.

**Death.** If you die, your beneficiary will become entitled to receive your vested Account balance. The distribution will start at the time specified in the section titled "Timing and Form of Payment" below.

### Normal Retirement Age

"Normal Retirement Age" means the date you reach age 65.

### Timing and Form of Payment

**Distribution for Reasons Other Than Death.** If you become entitled to receive your benefit for any reason other than death your Account will be distributed in a lump sum payment. This is your normal form of payment. Payment of your vested Account may start as soon as administratively feasible with a final payment made consisting of any allocations occurring after your termination of employment. Your Account is payable in cash. If you do not choose a form of payment, the payment will be made in the form of a lump sum distribution.

**Distribution on Account of Death.** If you die before distribution of your Account begins, distribution of your entire Account must be completed by December 31 of the calendar year containing the fifth anniversary of your death unless an election is made by your beneficiary to receive distributions in accordance with (1) and (2) below:

(1) Distributions may be made over the life or over a period certain not greater than the life expectancy of the beneficiary commencing on or before December 31 of the calendar year immediately following the calendar year in which you die;

(2) If the beneficiary is your surviving spouse, the date distributions are required to begin in accordance with item (1) above will not be earlier than the later of (A) December 31 of the calendar year immediately following the calendar year in which you die, or (B) December 31 of the calendar year in which you would have attained age 70-1/2.

If the Qualified Preretirement Survivor Annuity has been waived or is not required, as specified below, your beneficiary will be entitled to a distribution in any form that is available to you prior to your death.

If you die after distribution of your Account has begun, the remaining portion of your Account will continue to be distributed under the method of distribution being used prior to your death. If your Account was not being distributed in the form of an annuity at the time of your death, your beneficiary may elect to receive your remaining vested Account balance in a lump sum distribution.

### Cash Out

After your termination of employment with the Employer, if the vested amount of your Account (excluding rollovers) does not exceed \$1,000 (or such lesser amount as determined by the Plan Administrator), your vested Account balance will be distributed directly to you in cash. If the vested amount of your Account



balance is more than \$1,000 (or such lesser amount as determined by the Plan Administrator) but less than \$5,000, your vested Account will be distributed from the Plan. You may either elect to receive this distribution in cash or to roll over the distribution to an individual retirement account (IRA) or the qualified plan of your new employer (but only if your new employer's plan allows such rollovers). However, if you do not timely return your election forms, the Plan Administrator will transfer your vested Account to an IRA established in your name; unless the distribution occurs after the Required Beginning Date. This mandatory distribution will be invested in an IRA designed to preserve principal and provide a reasonable rate of return and liquidity. All applicable fees or expenses will be deducted from the participant's IRA account. For further information concerning the Plan's automatic rollover provisions, the IRA provider and the fees and expenses attendant to the individual retirement plan please contact the Plan Administrator at the phone number found in the "ADMINISTRATIVE INFORMATION" section at the end of this Summary Plan Description.

If the vested amount of your Account exceeds \$5,000, you must consent to any distribution of your Account. However, the Plan Administrator will commence distribution of your vested Account balance without your consent at the time that payments must begin under applicable federal law - generally the April 1 following the later of the calendar year in which you attain age 70-1/2 or you terminate employment. However, you may elect to begin distributions on the April 1 following the calendar year in which you attain age 70-1/2 even if you have not yet terminated employment. Special rules apply to persons who are deemed to own more than 5% of the Employer.

### Beneficiary

You have the right to designate, in a written form acceptable to the Plan Administrator, one or more primary and one or more secondary beneficiaries to receive any benefit becoming payable upon your death. Your spouse must be your sole beneficiary unless he or she consents to the designation of another beneficiary. You may change your beneficiaries at any time and from time to time by filing written notice of such change with the Plan Administrator.

If you fail to designate a beneficiary, or in the event that all designated primary and secondary beneficiaries die before you, the death benefit will be payable to your spouse, or if there is no spouse, to your children in equal shares, or if there are no children to your estate.

## **IN-SERVICE DISTRIBUTIONS AND LOANS**

### In-service Distributions upon Normal Retirement Age

In-service distributions may be made upon attainment of Normal Retirement Age. These distributions can be made from the following Accounts: All Accounts.

### Hardship Withdrawals

**General Rule.** You may receive a distribution on account of hardship from the vested portion of all of your Accounts, except your Qualified Non-Elective Contribution Account and Safe Harbor Matching Contribution Account. Certain earnings of your Elective Deferral Account may not be eligible for hardship distribution as well. Because the Plan is a safe harbor plan, you may not receive a distribution on account of hardship from your Matching Contribution Account to the extent it was used to help satisfy the requirements for a safe harbor plan.

Your Roth Contributions may be withdrawn on account of financial hardship in the same manner as your regular Elective Deferral Contributions. Please note however, that the income on the

Roth Contributions may be taxable (and subject to penalties for early withdrawal) if the withdrawal is not a "qualified distribution."

**Immediate and Heavy Financial Need.** You may receive a hardship distribution only if the Plan Administrator finds that you have an immediate and heavy financial need where you lack other available resources. The following are the only financial needs considered immediate and heavy:

- (1) Expenses incurred or necessary for medical care, described in Code section 213(d), for you or your spouse, children, or dependents;
- (2) The purchase (excluding mortgage payments) of a principal residence for the Participant;
- (3) Payment of tuition and related educational fees for the next 12 months of post-secondary education for you or your spouse, children or dependents;
- (4) The need to prevent the eviction of you from your principal residence (or a foreclosure on the mortgage on your principal residence);
- (5) Payments for burial or funeral expenses for your deceased parent, spouse, children or dependents; or
- (6) Expenses for the repair of damage to your principal residence that would qualify for the casualty deduction.

Hardship distributions may be made for certain expenses of your primary beneficiary in addition to your dependents. These expenses include those for medical, tuition, and funeral expenses. A person is your "primary beneficiary" if that person is named as a beneficiary under the Plan and has an unconditional right to all or a portion of your Account Balance upon your death.

**Amount Necessary to Satisfy Need.** A distribution will be considered as necessary to satisfy your immediate and heavy financial need only if:

- (1) You have obtained all distributions, other than hardship distributions, and all nontaxable loans under all plans maintained by the Employer;
- (2) Your Elective Deferral Contributions, if applicable, will be suspended for 6 months after the receipt of the hardship distribution; and
- (3) The distribution is not in excess of the amount of an immediate and heavy financial need (including amounts necessary to pay any federal, state or local income taxes or penalties reasonably anticipated to result from the distribution).

#### Attainment of Age 59-1/2

You may receive a distribution after you reach age 59-1/2 from the vested portion of all of your Accounts. Your Roth Contributions may be withdrawn on account of attainment of age 59-1/2 in the same manner as your regular Elective Deferral Contributions. Please note however, that the income on the Roth Contributions may be taxable (and subject to penalties for early withdrawal) if the withdrawal is not a "qualified distribution."

## Rules Regarding In-service Distributions

The Plan Administrator may establish uniform procedures that include, but are not limited to, prescribing limitations on the frequency and minimum amount of withdrawals. All distributions will be made in the form of a single sum as soon as practicable following the valuation date as of which such withdrawal is made. Such distributions will be paid in cash or in kind. Only Employees are eligible to receive in-service distributions.

## Loans

If you are an active employee you may apply for a loan from the Plan. Loans will only be made to persons who the Plan Administrator determines have the ability to repay the loan. The maximum amount of your loan is the lesser of:

- (1) \$50,000 minus the highest outstanding balance of loans in the past 12 months, or
- (2) one-half the present value of your vested Account balance.

Loans must be repaid over a period not extending beyond five years from the date of the loan, unless such loan is used to acquire a dwelling unit that, within a reasonable time (determined at the time the loan is made), will be used as your principal residence. The maximum loan term for a principal residence loan is 30 years.

The Plan Administrator will determine whether you may receive a loan from your Roth Contribution Account. If the Plan Administrator allows loans from your Roth Contribution Account, the Plan Administrator may specify an ordering rule for loans. The ordering rule will determine whether loans will be made first or last from your Roth Contribution Account or in any combination of your Roth Contribution Account and any other Account.

You must repay a loan in accordance with the repayment schedule or you may repay the loan in full. Partial early loan payoffs are not permitted. You may refinance your loan if it meets the requirements for refinancing under IRS regulations. The loan will become payable in full on your termination of employment. The maximum number of loans outstanding at any one time is 1. The minimum loan amount is \$1,000.00. Payments will be made through payroll deduction from each regular paycheck.

Loan fees may be charged against the Account of the Participant to whom the loan is granted and the Plan Administrator may adopt any administrative rules or procedures that it deems necessary or appropriate with respect to the granting and administering of loans. Please contact the Plan Administrator if you would like more information regarding taking a loan from the Plan.

## **INVESTMENTS**

### Participant Self Direction

In General. The Plan Administrator allows you to direct the investment of all of your Accounts. The Plan Administrator may establish uniform guidelines and procedures relating to Participant self-direction.

Investment Elections. You may direct the percentage of your Accounts to be invested in one or more of the available investment funds. Your elections will be subject to such rules and limitations as the Plan

Administrator may prescribe. After your death, your beneficiary may make investment elections as if the beneficiary were the Participant. However, the Plan Administrator may restrict investment transfers to the extent required to comply with applicable law.

**Investment Decisions.** The Plan is intended to constitute a plan described in section 404(c) of ERISA. This means that Plan fiduciaries may be relieved of liability for any of your losses that are the result of your investment elections.

#### Qualifying Employer Securities

The Trustee may not invest the assets of the trust fund in "qualifying employer securities" or "qualifying employer real property".

#### Voting Rights

You may not direct the Trustee as to the exercise of voting rights with respect to any Trust Fund Investment.

#### Valuation Dates

Accounts are valued each business day.

### **SPECIAL TOP-HEAVY RULES**

#### Minimum Allocations

If the Plan is Top-Heavy, the Employer will generally allocate a minimum of 3% of your Compensation to the Plan if you are a Participant who is (i) employed by the Employer on the last day of the Plan Year and (ii) not a key employee.

Note that if you are covered by a collective bargaining agreement you will not share in Top-Heavy minimum allocations, provided retirement benefits were the subject of good faith bargaining.

#### Minimum Vesting

If you complete an hour of service while this Plan is Top-Heavy, all of your Accounts will be 100% vested and nonforfeitable.

### **CLAIM PROCEDURES**

**Application for Benefits.** You or any other person entitled to benefits from the Plan (a "Claimant") may apply for such benefits by completing and filing a claim with the Plan Administrator. Any such claim must be in writing and must include all information and evidence that the Plan Administrator deems necessary to properly evaluate the merit of and to make any necessary determinations on a claim for benefits. The Plan Administrator may request any additional information necessary to evaluate the claim.

**Timing of Notice of Denied Claim.** The Plan Administrator will notify the Claimant of any adverse benefit determination within a reasonable period of time, but not later than 90 days (45 days if the claim relates to a disability determination) after receipt of the claim. This period may be extended one time by the Plan for up to 90 days (30 additional days if the claim relates to a disability determination), provided that the Plan

Administrator both determines that such an extension is necessary due to matters beyond the control of the Plan and notifies the Claimant, prior to the expiration of the initial review period, of the circumstances requiring the extension of time and the date by which the Plan expects to render a decision. If the claim relates to a disability determination, the period for making the determination may be extended for up to an additional 30 days if the Plan Administrator notifies the Claimant prior to the expiration of the first 30-day extension period.

**Content of Notice of Denied Claim.** If a claim is wholly or partially denied, the Plan Administrator will provide the Claimant with a written notice identifying (1) the reason or reasons for such denial, (2) the pertinent Plan provisions on which the denial is based, (3) any material or information needed to grant the claim and an explanation of why the additional information is necessary, and (4) an explanation of the steps that the Claimant must take if he wishes to appeal the denial including a statement that the Claimant may bring a civil action under ERISA.

**Appeals of Denied Claim.** If a Claimant wishes to appeal the denial of a claim, he must file a written appeal with the Plan Administrator on or before the 60th day (180th day if the claim relates to a disability determination) after he receives the Plan Administrator's written notice that the claim has been wholly or partially denied. The written appeal must identify both the grounds and specific Plan provisions upon which the appeal is based. The Claimant will be provided, upon request and free of charge, documents and other information relevant to his claim. A written appeal may also include any comments, statements or documents that the Claimant may desire to provide. The Plan Administrator will consider the merits of the Claimant's written presentations, the merits of any facts or evidence in support of the denial of benefits, and such other facts and circumstances as the Plan Administrator may deem relevant. The Claimant will lose the right to appeal if the appeal is not timely made. The Plan Administrator will ordinarily rule on an appeal within 60 days (45 days if the claim relates to a disability determination). However, if special circumstances require an extension and the Plan Administrator furnishes the Claimant with a written extension notice during the initial period, the Plan Administrator may take up to 120 days (90 days if the claim relates to a disability determination) to rule on an appeal.

**Denial of Appeal.** If an appeal is wholly or partially denied, the Plan Administrator will provide the Claimant with a notice identifying (1) the reason or reasons for such denial, (2) the pertinent Plan provisions on which the denial is based, (3) a statement that the Claimant is entitled to receive, upon request and free of charge, reasonable access to, and copies of, all documents, records, and other information relevant to the Claimant's claim for benefits, and (4) a statement describing the Claimant's right to bring an action under section 502(a) of ERISA. The determination rendered by the Plan Administrator will be binding upon all parties.

**Determinations of Disability.** If the claim relates to a disability determination, determinations of the Plan Administrator will include the information required under applicable United States Department of Labor regulations.

## **YOUR RIGHTS UNDER ERISA**

As a participant, you are entitled to certain rights and protections under the Employee Retirement Income Security Act of 1974 (ERISA). This federal law provides that you have the right to:

Examine, without charge, at the Plan Administrator's office and at other specified locations, such as worksites and union halls, all documents governing the Plan, including insurance contracts and collective bargaining agreements, 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.

Obtain, upon written request to the Plan 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 Plan Administrator may make a reasonable charge for the copies.

Receive a summary of the Plan's annual financial report. The Plan Administrator is required by law to furnish each participant with a copy of this summary annual report.

Obtain, once a year, a statement from the Plan Administrator regarding your Accrued Benefit under the Plan and the nonforfeitable (vested) portion of your Accrued Benefit, if any. This statement must be requested in writing and is not required to be given more than once every 12 months. The Plan must provide the statement free of charge.

In addition, ERISA imposes duties upon the people who are responsible for the operation of the Plan. The people who operate the 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, your union, or any other person, may fire you or otherwise discriminate against you in any way to prevent you from obtaining your benefits or exercising your rights under ERISA.

If your claim for a 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, 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 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. If you lose, the court may order you to pay these costs and fees, for example, if it finds your claim is frivolous.

If you have any questions about the 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.

## **MISCELLANEOUS**

### **Domestic Relations Orders**

Under certain circumstances, a court may issue a domestic relations order assigning a portion of your benefits under the Plan to a spouse, former spouse, child or other dependent. The Plan Administrator will determine whether the order is a qualified domestic relations order ("QDRO"). If the Plan Administrator determines that the order is a QDRO, it will implement the terms of the QDRO and divide your Account accordingly. You may obtain, without charge, a copy of the Plan's QDRO procedures from the Plan Administrator.

### Assignment and Alienation of Benefits

Except as provided below, your Account is held in trust and cannot be assigned and, to the extent permitted by law, is not subject to any form of attachment, garnishment, sequestration or other actions of collection. You may not alienate, anticipate, commute, pledge, encumber or assign any of the benefits or payments which you may expect to receive, contingently or otherwise, under the Plan, except that you may designate a beneficiary.

However, you may lose all or part of your balance:

- pursuant to the terms of a QDRO;
- to comply with any federal tax levy; or
- to comply with the provisions and conditions of a judgment, order, decree or settlement agreement between you and the Secretary of Labor or the Pension Benefit Guaranty Corporation relating to your violation (or alleged violation) of ERISA fiduciary responsibilities.

### Amendment and Termination

Although the Employer intends to maintain the Plan indefinitely, the Employer may amend or terminate the Plan at any time in its sole discretion. If any of these actions is taken, you will be notified. However, no such action may permit any part of Plan assets to be used for any purpose other than the exclusive benefit of participants and beneficiaries or cause any reduction in your vested Account balance as of the date of the amendment or termination. If the Plan is terminated, all amounts credited to your Account will become 100% vested.

### Fees

Your Account may be charged for some or all of the costs and expenses of operating the Plan. Such expenses include, but are not limited to, investment expenses and costs to process loans, Plan distributions and QDROs. For specific information regarding the fees that are charged by the Plan, please contact the Plan Administrator.

### Insurance

The Plan is not insured by the Pension Benefit Guaranty Corporation (PBGC) because it is not a defined benefit pension plan.

### Administrator Discretion

The Plan Administrator has the authority to make factual determinations, to construe and interpret the provisions of the Plan, to correct defects and resolve ambiguities in the Plan and to supply omissions to the Plan. Any construction, interpretation or application of the Plan by the Plan Administrator is final, conclusive and binding.

### Plan Not a Contract of Employment

The Plan does not constitute, and is not to be deemed to constitute, an employment contract between the Employer and any employee or an inducement or condition of employment of any employee. Nothing in the Plan is to be deemed to give any employee the right to be retained in the Employer's service or to interfere with the Employer's right to discharge any employee at any time.

### Waiver

Any failure by the Plan or the Plan Administrator to insist upon compliance with any of the Plan's provisions at any time or under any set of circumstances does not operate to waive or modify the provision or in any other manner render it unenforceable as to any other time or as to any other occurrence, whether the circumstances are the same or different. No waiver of any term or condition of the Plan is valid or of any force or effect unless it is expressed in writing and signed by a person authorized by the Plan Administrator to grant a waiver.

### Errors

Any clerical or similar error by the Plan Administrator cannot give coverage under the Plan to any individual who otherwise does not qualify for coverage under the Plan. An error cannot give a benefit to an individual who is not actually entitled to the benefit.

## **ADMINISTRATIVE INFORMATION**

1. The Plan Sponsor and Plan Administrator is S & P Drilling Inc.  
  
Address: PO Box 1878, Rifle, CO 81650  
Phone number: 970-625-2608  
Employer Identification Number: 75-3145255
2. The Plan is a 401(k) profit-sharing plan. The Plan number is 001.
3. The Plan's designated agent for service of legal process is the President of the corporation named in item 1. Any legal papers should be delivered to such person at the address listed in item 1. However, service may also be made upon the Plan Administrator or a Trustee.
4. The Plan's assets are held in a trust created under the terms of the Plan. The Trustee is AdvisorTrust, Inc. Its principal place of business is 201 South Phillips Ave., Suite 123, Sioux Falls, South Dakota 57104.
5. The Employer's fiscal year ends on 12/31 and the Plan Year ends on December 31.



6. If the Plan is established or maintained by two or more employers, you can obtain a complete list of the employers sponsoring the Plan upon written request to the Plan Administrator (this list is also available for examination by participants and beneficiaries); you may also receive from the Plan Administrator, upon written request, information as to whether a particular employer is a sponsor of the Plan and, if the employer is a plan sponsor, the sponsor's address.

**PROCEDURES FOR DETERMINING THE  
QUALIFIED STATUS OF A DOMESTIC RELATIONS ORDER  
S & P DRILLING 401(K) PLAN**

1. Upon receipt of the DRO, the Plan Administrator will separately account for, and will place a freeze on, the Participant's benefit which would be payable to the alternate payee as if the DRO is qualified. The freeze will remain on the Participant's benefit until the earlier of: (a) 18 months from the date the benefit was frozen, (b) the date the distribution is made to the alternate payee, (c) the date the Plan Administrator receives a court order releasing the Participant's benefit from the freeze, or (d) as of the end of the 30 day appeal period if no appeal is filed within such period. In no event will a Participant's benefit be frozen for longer than 18 months. If the DRO is not found to be qualified within the period specified above, the Plan Administrator will remove the freeze on the Participant's benefit and may treat the Participant's benefit as if there had been no DRO.
2. After receipt of the DRO, the Plan Administrator will determine whether the order is qualified by ascertaining whether the order meets all of the statutory requirements and the requirements set forth in any procedures established by the Plan Administrator. The determination and notification under this Paragraph 3 will be made within a reasonable period to be fixed by the Plan Administrator. Pursuant to PPA section 1001 and DOL regulation 2530.206, a DRO will not fail to be a QDRO solely because the DRO: (a) revises or is issued after another DRO or QDRO, or (b) the DRO is issued after the Participant's death, divorce or annuity starting date; provided that the DRO satisfies the same requirements and protections that apply under ERISA section 206(d)(3). These requirements and protections include, but are not limited to, prohibiting a DRO from providing any type or form of benefit, or any option, not otherwise provided under the Plan; providing increased benefits determined on the basis of actuarial value; or paying benefits to an alternate payee that are required to be paid to another alternate payee under another DRO previously determined to be a QDRO.
3. If the Plan Administrator determines that the DRO meets the requirements set and is a qualified domestic relations order ("QDRO"), the Plan Administrator will create an account in the name of each alternate payee, if necessary, and shall arrange for the benefits to be paid to the alternate payee in accordance with the QDRO. The following rules shall apply to the account of the Alternate Payee:
  - (a) **Distribution.** If the QDRO provides, the Plan Administrator may distribute the benefit of an alternate payee prior to the date when the Participant attains his Earliest Retirement Age. For purposes of this procedure, "Earliest Retirement Age" is the earlier of: (1) the date on which the Participant is entitled to a distribution under the Plan, or (2) the later of the date of which the Participant attains age 50, or the earliest date on which the Participant could begin receiving benefits under the Plan if the Participant separated from service.
  - (b) **Investment Funds.** If the DRO does not specify the Participant's accounts or investment funds to be set aside to an alternate payee, any amount transferable under the DRO, other than amounts used as security for a Plan loan, will be segregated on a pro rata basis.
  - (c) **Default Rules.** Unless a QDRO provides to the contrary:
    - (1) **Investment Returns.** An alternate payee will be credited with the same rate of gain/loss as the account of the Participant from the effective date of the account division to the date the order is processed by the Plan.
    - (2) **Death Benefits.** An alternate payee has the right to designate a beneficiary who shall receive benefits payable to an alternate payee which have not been distributed at the time of the alternate payee's death.
    - (3) **Investment Direction.** An alternate payee has the right to direct the investment of its account created by the QDRO in the same manner as the Participant.
    - (4) **Voting Rights.** An alternate payee shall have the right to direct the trustee as to the exercise of voting rights in the same manner as the Participant.
  - (d) **Loans.** An alternate payee is not permitted to receive a loan from the Plan.
4. If the Plan Administrator determines that the DRO does not meet the requirements set forth in Paragraph 3, the Plan Administrator will notify in writing the affected Participant, each named alternate payee and any legal counsel representing the parties. The notification will include the reasons why the DRO does not meet the requirements of Paragraph 3. The affected Participant or alternate payee may file a claim with the Plan Administrator for a review of the Plan Administrator's

determination under Paragraph 3, in accordance with the Plan's procedures for the filing and review of claims, except that any such claim must be filed with the Plan Administrator within 30 days after the date such Participant or alternate payee receives notice of the Plan Administrator's determination.

5. These Procedures may be amended at any time.

## **LOAN PROCEDURES**

### **S & P DRILLING 401(K) PLAN**

This document contains important information about the procedures for obtaining a loan from the Plan. The following rules shall apply to the loan program:

**Procedure for Applying for a Loan** If you are an active Participant in the S & P Drilling 401(k) Plan, you may apply for a loan from the Plan. The Loan Administrator will make loan applications available to any individual who has a vested interest under the Plan.

#### **1. Standard Loan Procedure –**

To apply for a loan, simply access the Accountlink System website ([www.webaccountlink.com](http://www.webaccountlink.com)) or call PCS Participant Services at 1-888-621-5491 and speak with a PCS Participant Services Representative (PSR). A loan application will be either mailed or emailed to you. Submit the completed loan application to the Loan Administrator at least 30 days before the date the loan is to be made. The Loan Administrator will review the loan application for completeness. Incomplete applications will be returned and must be resubmitted for consideration. All loan applicants must meet the requirement of this Policy for consideration and approval. If the loan applicant fails to meet the requirement of this Policy and receives a loan disbursement, the loan will be treated as a "deemed distribution" and reported as taxable to the IRS.

#### **2. Paperless Loan Application Procedure –**

To apply for a paperless loan, simply access the Accountlink System website ([www.webaccountlink.com](http://www.webaccountlink.com)) or call PCS Participant Services at 1-888-621-5491 and speak with a PCS Participant Services Representative (PSR). A PSR can assist you in determining the terms of your loan and, once confirmed, your custodian will mail the loan check to your address of record within five to ten business days. Your endorsement of the check indicates your acceptance of the loan provisions (including your certification that your loan will be used to purchase your principal residence, if applicable).

**Administration of the Plan Loan Program** The Plan loan program is administered by the Plan Administrator.

**Promissory Note** If your loan is approved, you will be required to sign a promissory note.

**Type and Amount of Loan** The Plan does not restrict the purposes for which loans may be made. However, the Plan does set maximum and minimum limits on the amount of a loan.

**Maximum Amount of Loan** A loan cannot be greater than 50% of the vested account balance under the Plan. Additionally, the loan cannot exceed \$50,000 minus the difference between the highest outstanding balance of loans in the past 12 months and the outstanding balance of loans from the Plan on the date the loan is made.

**Roth Contribution Account** The Plan Administrator will determine whether you may receive a loan from your Roth Contribution Account. If the Plan Administrator allows loans from your Roth Contribution Account, the Plan Administrator may specify an ordering rule for loans. The ordering rule will determine whether loans will be made first or last from your Roth Contribution Account or in any combination of your Roth Contribution Account and any other Account.

**Repayment** Loans must be repaid over a period not extending beyond five years from the date of the loan, unless such loan is used to acquire a dwelling unit which within a reasonable time (determined at the time the loan is made) will be used as your principal residence. The maximum loan term for a principal residence loan is 30 years.

If you go on a leave of absence you may be able to suspend loan repayments. Please contact the Plan Administrator to determine whether your leave of absence qualifies. You must repay a loan in accordance with the repayment schedule or you may repay the loan in full. Loan repayments shall be made each pay period. Partial early loan payoffs are not permitted. If allowed under IRS regulations you may refinance your loan. The loan will become payable in full on your termination of employment.

**Maximum Number of Loans** The maximum number of loans outstanding at any one time is 1.

**Minimum Loan Amount** The minimum loan amount is \$1,000.00.

**Interest Rate** According to U.S. Department of Labor Regulations, the interest rate for a participant loan from a retirement plan must be comparable to the current interest rates charged by financial institutions for similar loans. The interest that will apply on your

loan will be Prime + 1% per year. However, you may qualify for a lower interest rate if you are on active duty in the military. If you are on active duty, please contact the Plan Administrator to determine whether you qualify for the lower interest rate.

**Collateral** Your vested account balance under the Plan will serve as collateral for the loan. However, a maximum of 50% of your vested account balance may be used as collateral.

**Payroll Deduction** Payments will be made through payroll deduction every pay period.

**Fees** The Plan charges an initial loan processing fee of \$100.00. The Plan charges an ongoing loan maintenance fee of \$35.00 annually. Any fee may be deducted from the proceeds of the loan and/or charged to your account.

**Default** Your loan will be in default if a scheduled payment is not made by the end of the "cure period." The "cure period" is the repayment period allowed by the Plan Administrator which will not extend beyond the last day of the calendar quarter following the calendar quarter during which the last scheduled installment payment was due and not paid. Upon default, the entire balance of the loan will be immediately due and the entire balance will be treated as a taxable distribution to you. Interest on the loan, however, will continue to accrue until you have a distributable event for purposes of determining any future loan availability. In addition, your vested account balance may be reduced by the amount of the outstanding principal and interest on the loan. In other cases, this offset will not occur until you are entitled to receive benefits (for example, upon your termination of employment).

**Coordination with Qualified Domestic Relations Orders ("QDROs")** No loan will be approved if the Plan Administrator is reviewing a domestic relations order that may affect your benefit under the Plan.

**Special Rules for Military Leave** If you are called into or volunteer for military service, special provisions may apply. You may request a loan suspension during your leave and choose from the following repayment methods upon your return to employment: (a) re-amortize the remaining loan balance; (b) repay all suspended loan payments at the end of your leave; or (c) continue payments under the prior rate and make a balloon payment at the end of the term. If you refinance the loan, you may extend the repayment period to the date that includes the latest date the loan repayment period could have been scheduled for (if the original term was less than five years) plus the period during which the loan was suspended. (See the note above regarding interest rates.)

To fully understand the potential tax consequences in the event of a loan default, you are encouraged to seek professional tax advice before requesting a loan.