BANK OF AMERICA CORP /DE/
Form 424B2
November 02, 2018
This amended and restated Preliminary Pricing Supplement amends and restates in full the Preliminary Pricing Supplement dated October 30, 2018 for CUSIP 06048WYA2 to update dates.

This pricing supplement, which is not complete and may be changed, relates to an effective Registration Statement under the Securities Act of 1933. This pricing supplement and the accompanying prospectus supplement and prospectus are not an offer to sell these notes in any country or jurisdiction where such an offer would not be permitted.

Preliminary Pricing Supplement - Subject to Completion

(To Prospectus dated June 29, 2018

and Series N Prospectus Supplement dated June 29, 2018)
November 1, 2018

Filed Pursuant to Rule 424(b)(2)
Registration Statement No.
333-224523

$_____

Puttable Floating Rate Notes, due November 9, 2058

- The CUSIP number for the notes is **06048WYA2**.
- The notes are senior unsecured debt securities issued by Bank of America Corporation ("BAC"). All payments and the return of the principal amount on the notes are subject to our credit risk.
- The notes will mature on November 9, 2058. At maturity, if we have not previously repurchased the notes, you will receive a cash payment equal to 100% of the principal amount, plus any accrued and unpaid interest.
- Interest will be paid on the 9th day of each February, May, August and November of each year, beginning on February 9, 2019, and with the final interest payment occurring on the maturity date.
- The notes will bear interest at a per annum floating rate equal to 3-month U.S. dollar LIBOR **minus** the Spread (as defined below). In no event will the interest rate applicable to any interest period be less than 0.00% per annum.
- The "Spread" will be 0.30%.
- You may require that we repurchase your notes in whole or in part on an annual basis on or after the Initial Repurchase Date (which will be approximately three years after the issue date) if you comply with the requirements set forth in this pricing supplement. However, please note that you will receive less than your principal amount if you request that we repurchase your notes on any Repurchase Date on or prior to November 9, 2038.
- We will not have the option to redeem the notes prior to maturity.
- The notes are issued in minimum denominations of $100,000 and whole multiples of $1,000 in excess of $100,000.
- The notes will not be listed on any securities exchange.

The notes:

Are Not FDIC Insured Are Not Bank Guaranteed May Lose Value

	Per Note	Total

Public Offering Price	100.00%	$
Underwriting Discount	1.00%*	$
Proceeds (before expenses) to BAC	99.00%	$

* We or one of our affiliates may pay varying selling concessions of up to 1.00% in connection with the distribution of the notes to other registered broker-dealers.

The notes are unsecured and are not savings accounts, deposits, or other obligations of a bank. The notes are not guaranteed by Bank of America, N.A. or any other bank, are not insured by the Federal Deposit Insurance Corporation or any other governmental agency, and involve investment risks. Potential purchasers of the notes should consider the information in "Risk Factors" beginning on page PS-5 of this pricing supplement, page S-5 of the attached prospectus supplement, and page 9 of the attached prospectus.

None of the Securities and Exchange Commission, any state securities commission, or any other regulatory body has approved or disapproved of these notes or passed upon the adequacy or accuracy of this pricing supplement, the accompanying prospectus supplement, or the accompanying prospectus. Any representation to the contrary is a criminal offense.

We will deliver the notes in book-entry form only through The Depository Trust Company on or about November 9, 2018 against payment in immediately available funds.

Series N MTN prospectus supplement dated June 29, 2018 and prospectus dated June 29, 2018

BofA Merrill Lynch

SUMMARY OF TERMS

This pricing supplement supplements the terms and conditions in the prospectus, dated June 29, 2018, as supplemented by the Series N prospectus supplement, dated June 29, 2018 (as so supplemented, together with all documents incorporated by reference, the "prospectus"), and should be read with the prospectus.

• **Title of the Series:**	Puttable Floating Rate Notes, due November 9, 2058
• **Aggregate Principal Amount Initially Being Issued:**	$_____
• **Pricing Date:**	November 7, 2018
• **Issue Date:**	November 9, 2018
• **Maturity Date:**	November 9, 2058
• **Minimum Denominations:**	$100,000 and multiples of $1,000 in excess of $100,000
• **Ranking:**	Senior, unsecured
• **Day Count Fraction:**	30/360
• **Interest Periods:**	Quarterly. Each interest period (other than the first interest period, which will begin on the issue date) will begin on, and will include, an interest payment date, and will extend to, but will exclude, the next succeeding interest payment date (or the maturity date, as applicable).
• **Interest Payment Dates:**	Interest will be paid on the 9th day of each February, May, August and November of each year, beginning on February 9, 2019, and with the final interest payment occurring on the maturity date.
• **Interest Reset Dates:**	The 9th day of each February, May, August and November of each year, beginning on the issue date.
• **Interest Rates:**	The notes will bear interest at a per annum floating rate equal to 3-month U.S. dollar LIBOR **minus** the Spread (as defined below). The rate of interest payable on the notes during any interest period will not be less than 0.00%.
• **Designated LIBOR Page:**	Reuters Page LIBOR01. If no offered rate appears on the Designated LIBOR Page on the relevant interest determination date the rate will be determined as described under "Description of Debt Securities—Floating Rate Notes—LIBOR Notes" beginning on page 30 of the attached prospectus. See also "Risk Factors—Additional Considerations Relating to LIBOR—Reforms to and uncertainty regarding LIBOR may adversely affect our business and/or the value of, return on and trading market for notes bearing a floating rate of interest based on LIBOR" and "—For a series of notes bearing a floating rate of interest based on LIBOR, such interest rate may be calculated using alternative methods if LIBOR is no longer

	quoted and may be calculated using a different base rate if LIBOR is discontinued" beginning on page S-6 of the attached prospectus supplement.
· **Interest Determination Date:**	The "interest determination date" for each quarterly interest period will be the second London Banking Day (as defined in the prospectus) prior to the applicable Interest Reset Date; however, the interest determination date for the first quarterly interest period will be the pricing date.
• **Spread:**	0.30%
• **Index Maturity:**	3 months
• **Calculation Agent:**	Merrill Lynch Capital Services, Inc.
• **Business Days:**	If any interest payment date, Repurchase Date (as defined below), or the maturity date occurs on a day that is not a business day in New York, New York, then the payment with respect to such interest payment date, Repurchase Date or the maturity date, as applicable, will be postponed until the next business day in New York, New York. No additional interest will accrue, nor will interest be reduced, on the notes as a result of such adjustment, and no adjustment will be made to the length of the relevant interest period.
• **Repurchase at Your Option:**	*Your Right to Have Us Repurchase the Notes.* You may require that we repurchase your notes in whole or in part on any Repurchase Date beginning on November 9, 2021 (the "Initial Repurchase Date"), during the term of the notes by following the procedures described under "Annex A - Supplemental Terms of the Notes - Early Repurchase." These required procedures will include our receiving a Repurchase Notice no later than 4:00 p.m., New York City time, 15 business days prior to the relevant Repurchase Date. If you fail to comply with these procedures, your notice will be deemed ineffective, and we will not repurchase your notes. Your request that we repurchase your notes is irrevocable. You must request us to repurchase at least $100,000 in principal amount of notes. Any repurchase in part must be in increments of $1,000, provided that any remaining principal amount following a repurchase must be at least $100,000. *Repurchase Dates:* Every one year anniversary of November 9th, beginning on November 9, 2021, and ending on and including November 9, 2057. *Payment Upon a Repurchase.* Upon our early repurchase, you will receive for each $1,000 in principal amount of the notes to be repurchased, in addition to any accrued but unpaid interest, a cash payment on the applicable Repurchase Date equal to: Repurchase Dates from and including November 9, 2021 to and including November 9, 2028: $980 Repurchase Dates from and including November 9,

2029 to and including November 9, 2038: $990

Repurchase Dates from and including November 9, 2039 to and including November 9, 2057: $1,000

You will receive less than the principal amount of the notes to be redeemed if you request that we repurchase your notes on any Repurchase Date on or prior to November 9, 2038.

Interest will cease to accrue on the notes on the applicable Repurchase Date.

Repurchase Notice: A repurchase notice substantially in the form of the Repurchase Notice set forth in Annex B to this pricing supplement.

- **Redemption at Our Option:** None
- **Record Dates for Interest Payments:** For book-entry only notes, one business day in New York, New York prior to the applicable interest payment date. If notes are not held in book-entry only form, the record dates will be the fifteenth calendar day preceding such interest payment date, whether or not such record date is a business day.
- **Listing:** None

Certain capitalized terms used and not defined in this document have the meanings ascribed to them in the prospectus supplement and prospectus. Unless otherwise indicated or unless the context requires otherwise, all references in this product supplement to “we,” “us,” “our,” or similar references are to Bank of America Corporation.

RISK FACTORS

Your investment in the notes entails significant risks. Your decision to purchase the notes should be made only after carefully considering the risks of an investment in the notes, including those discussed below, with your advisors in light of your particular circumstances. The notes are not an appropriate investment for you if you are not knowledgeable about significant elements of the notes or financial matters in general.

The interest rate on the notes may be equal to zero. The notes will pay interest at a rate per annum equal to 3-month U.S. dollar LIBOR **minus** the Spread. It is possible that the interest rate on the notes may be equal to zero for one or more interest periods. The interest payments on the notes may result in a return that is less than other debt securities that we may issue that have a similar term.

An investment in the notes may be more risky than an investment in notes with a shorter term. The notes have a term of 40 years, if we do not repurchase them before maturity as set forth in this pricing supplement. By purchasing notes with a relatively longer term, you are more exposed to fluctuations in interest rates than if you purchased a note with a shorter term. In particular, you may be negatively affected if interest rates begin to rise, because the interest rate on the notes may be less than the amount of interest you could earn on other investments with a similar level of risk available at that time. In addition, if you tried to sell your notes at such time, their value in any secondary market transaction would also be adversely affected.

If you request that we repurchase your notes on any Repurchase Date on or prior to November 9, 2038, you will lose a portion of the principal amount of your notes. If you request that we repurchase your notes on any Repurchase Date on or prior to November 9, 2028, the payment that you receive on the Repurchase Date will be a Repurchase Amount that is equal to $980 for each $1,000 in principal amount of the notes to be repurchased. If you request that we repurchase your notes on any Repurchase Date after that date, but on or prior to November 9, 2038, the payment that you receive on the Repurchase Date will be a Repurchase Amount that is equal to $990 for each $1,000 in principal amount of the notes to be repurchased. Accordingly, you may lose a portion of your principal amount upon an early repurchase. Additionally, depending on the market conditions, including changes in interest rates, it is possible that the value of the notes in the secondary market at any time may be greater than the repurchase price. Accordingly, prior to exercising the repurchase option described above, you should contact the broker or other entity through which the notes are held to determine whether a sale of the notes in the secondary market may result in greater proceeds than the repurchase price.

There are restrictions on your ability to request that we repurchase your notes. You may submit a request to have us repurchase your notes on any Repurchase Date. If you elect to exercise your right to have us repurchase your notes, your request that we repurchase your notes is only valid if we receive your Repurchase Notice no later than 4:00 p.m., New York City time, 15 business days prior to the relevant Repurchase Date and following the procedures described under “Annex A - Supplemental Terms of Notes - Early Repurchase” and we (or our affiliates) acknowledge receipt of the Repurchase Notice that same day. If we do not receive that Repurchase Notice, or we (or our affiliates) do not acknowledge receipt of that notice as provided in Annex A below, your repurchase request will *not be effective* and we will not be required to repurchase your notes on the corresponding Repurchase Date. Because of the timing requirements of the Repurchase Notice, settlement of the repurchase will be longer than a sale and settlement in the secondary market. As your request that we repurchase your notes is irrevocable, this will subject you to market risk in the event the market fluctuates after we receive your request. Further, you cannot require us to repay less than $100,000 principal amount of notes on any Repurchase Date. If you purchase or at any time own less than $100,000 principal amount of the notes, you will not be able to elect to have us repurchase your notes because each repurchase must be in respect of at least $100,000 principal amount of notes.

Payments on the notes are subject to our credit risk, and actual or perceived changes in our creditworthiness are expected to affect the value of the notes. The notes are our senior unsecured debt securities. As a result, your receipt of all payments of interest and principal on the notes is dependent upon our ability to repay our obligations on the applicable payment date. No assurance can be given as to what our financial condition will be at any time during the term of the notes or on the maturity date or any Repurchase Date. If we become unable to meet our financial obligations as they become due, you may not receive the amounts payable under the terms of the notes.

Our credit ratings are an assessment by ratings agencies of our ability to pay our obligations. Consequently, our perceived creditworthiness and actual or anticipated decreases in our credit ratings or increases in our credit spreads prior to the maturity date of the notes may adversely affect the market value of the notes. However, because your return on the notes depends upon factors in addition to our ability to pay our obligations, such as the difference between the interest rates accruing on the notes and current market interest rates, an improvement in our credit ratings will not reduce the other investment risks related to the notes.

We have included in the terms of the notes the costs of developing, hedging, and distributing them, and the price, if any, at which you may sell the notes in any secondary market transaction will likely be lower than the public offering price due to, among other things, the inclusion of these costs. In determining the economic terms of the notes, and consequently the potential return on the notes to you, a number of factors are taken into account. Among these factors are certain costs associated with developing, hedging, and offering the notes.

Assuming there is no change in market conditions or any other relevant factors, the price, if any, at which the selling agent or another purchaser might be willing to purchase the notes in a secondary market transaction is expected to be lower than the price that you paid for them. This is due to, among other things, the inclusion of these costs, and the costs of unwinding any relating hedging.

The quoted price of any of our affiliates for the notes could be higher or lower than the price that you paid for them.

We cannot assure you that a trading market for the notes will ever develop or be maintained. We will not list the notes on any securities exchange. We cannot predict how the notes will trade in any secondary market, or whether that market will be liquid or illiquid.

The development of a trading market for the notes will depend on our financial performance and other factors. The number of potential buyers of the notes in any secondary market may be limited. We anticipate that our affiliate, Merrill Lynch, Pierce, Fenner & Smith Incorporated (“MLPF&S”), will act as a market-maker for the notes, but neither MLPF&S nor any of our other affiliates is required to do so. MLPF&S may discontinue its market-making activities as to the notes at any time. To the extent that MLPF&S engages in any market-making activities, it may bid for or offer the notes. Any price at which MLPF&S may bid for, offer, purchase, or sell any notes may differ from the values determined by pricing models that it may use, whether as a result of dealer discounts, mark-ups, or other transaction costs. These bids, offers, or completed transactions may affect the prices, if any, at which the notes might otherwise trade in the market.

In addition, if at any time MLPF&S were to cease acting as a market-maker for the notes, it is likely that there would be significantly less liquidity in the secondary market and there may be no secondary market at all for the notes. In such a case, the price at which the notes could be sold likely would be lower than if an active market existed and you should be prepared to hold the notes until maturity or an earlier repurchase.

The availability and liquidity of a trading market for the notes will also be affected by the degree to which purchasers treat the notes as qualified replacement property, as discussed below.

Many economic and other factors will impact the market value of the notes. The market for, and the market value of, the notes may be affected by a number of factors that may either offset or magnify each other, including:

- the time remaining to maturity of the notes;
- the aggregate amount outstanding of the notes;
- the level, direction, and volatility of market interest rates generally;
- general economic conditions of the capital markets in the United States;
- geopolitical conditions and other financial, political, regulatory, and judicial events that affect the capital markets generally;
- our financial condition and creditworthiness; and
- any market-making activities with respect to the notes.

Our trading and hedging activities may create conflicts of interest with you. We or one or more of our affiliates, including MLPF&S, may engage in trading activities related to the notes that are not for your account or on your behalf. We expect to enter into arrangements to hedge the market risks associated with our obligation to pay the amounts due under the notes. We may seek competitive terms in entering into the hedging arrangements for the notes, but are not required to do so, and we may enter into such hedging arrangements with one of our subsidiaries or affiliates. This hedging activity is expected to result in a profit to those engaging in the hedging activity, which could be more or less than initially expected, but which could also result in a loss for the hedging counterparty. These trading and hedging activities may present a conflict of interest between your interest in the notes and the interests we and our affiliates may have in our proprietary accounts, in facilitating transactions for our other customers, and in accounts under our management.

U.S. FEDERAL INCOME TAX SUMMARY

The following summary of the material U.S. federal income tax considerations of the acquisition, ownership, and disposition of the notes is based upon the advice of Sidley Austin LLP, our tax counsel. The following discussion supplements, and to the extent inconsistent supersedes, the discussions under "U.S. Federal Income Tax Considerations" in the accompanying prospectus and under "U.S. Federal Income Tax Considerations" in the accompanying prospectus supplement and is not exhaustive of all possible tax considerations. This summary is based upon the Internal Revenue Code of 1986, as amended (the "Code"), regulations promulgated under the Code by the U.S. Treasury Department ("Treasury") (including proposed and temporary regulations), rulings, current administrative interpretations and official pronouncements of the Internal Revenue Service (the "IRS"), and judicial decisions, all as currently in effect and all of which are subject to differing interpretations or to change, possibly with retroactive effect. No assurance can be given that the IRS would not assert, or that a court would not sustain, a position contrary to any of the tax consequences described below. This summary does not include any description of the tax laws of any state or local governments, or of any foreign government, that may be applicable to a particular holder.

This summary is directed solely to U.S. Holders and Non-U.S. Holders that, except as otherwise specifically noted, will purchase the notes upon original issuance and will hold the notes as capital assets within the meaning of Section 1221 of the Code, which generally means property held for investment, and that are not excluded from the discussion under "U.S. Federal Income Tax Considerations" in the accompanying prospectus. This summary assumes that the issue price of the notes, as determined for U.S. federal income tax purposes, equals the principal amount thereof.

You should consult your own tax advisor concerning the U.S. federal income tax consequences to you of acquiring, owning, and disposing of the notes, as well as any tax consequences arising under the laws of any state, local, foreign, or other tax jurisdiction and the possible effects of changes in U.S. federal or other tax laws.

U.S. Holders

Tax Treatment. We intend to treat the notes as "variable rate debt instruments" for U.S. federal income tax purposes, and the balance of this discussion assumes that this characterization is proper and will be respected. Under this characterization, interest on a note generally will be included in the income of a U.S. Holder as ordinary income at the time it is accrued or is received in accordance with the U.S. Holder's regular method of accounting for U.S. federal income tax purposes. Please see the discussion in the prospectus under the section entitled "U.S. Federal Income Tax Considerations—Taxation of Debt Securities—Consequences to U.S. Holders—Variable Rate Debt Securities" for a discussion of these rules.

Upon the sale, exchange, retirement, or other disposition of a note, a U.S. Holder will recognize gain or loss equal to the difference between the amount realized upon the sale, exchange, retirement, or other disposition (less an amount equal to any accrued interest not previously included in income if the note is disposed of between interest payment dates, which will be included in income as interest income for U.S. federal income tax purposes) and the U.S. Holder's adjusted tax basis in the note. A U.S. Holder's adjusted tax basis in a note generally will be the cost of the note to such U.S. Holder. Any gain or loss realized on the sale, exchange, retirement, or other disposition of a note generally will be capital gain or loss and will be long-term capital gain or loss if the note has been held for more than one year. The ability of U.S. Holders to deduct capital losses is subject to limitations under the Code.

Qualified Replacement Property. Prospective investors seeking to treat the notes as "qualified replacement property" for purposes of Section 1042 of the Code should be aware that Section 1042 requires the issuer to meet certain requirements in order for the notes to constitute qualified replacement property. In general, qualified replacement property is a security issued by a domestic operating corporation that did not, for the taxable year preceding

the taxable year in which such security was purchased, have "passive investment income" in excess of 25 percent of the gross receipts of such corporation for such preceding taxable year (the "passive income test"). For purposes of the passive income test, where the issuing corporation is in control of one or more corporations or such issuing corporation is controlled by one or more other corporations, all such corporations are treated as one corporation (the "affiliated group") when computing the amount of passive investment income under Section 1042.

We believe that less than 25 percent of our affiliated group's gross receipts is passive investment income for the taxable year ending December 31, 2017. Accordingly, we believe that the notes should qualify as "qualified replacement property". In making this determination, we have made certain assumptions and used procedures which we believe are reasonable. We cannot give any assurance as to whether our affiliated group will continue to meet the relevant tests and requirements necessary for the notes to qualify as "qualified replacement property". It is, in addition, possible that the IRS may disagree with the manner in which we have calculated the affiliated group's gross receipts (including the characterization thereof) and passive investment income and the conclusions reached herein.

Non-U.S. Holders

Please see the discussion under "U.S. Federal Income Tax Considerations—Taxation of Debt Securities—Consequences to Non-U.S. Holders" in the accompanying prospectus for the material U.S. federal income tax consequences that will apply to Non-U.S. Holders of the notes.

Backup Withholding and Information Reporting

Please see the discussion under "U.S. Federal Income Tax Considerations—Taxation of Debt Securities—Backup Withholding and Information Reporting" in the accompanying prospectus for a description of the applicability of the backup withholding and information reporting rules to payments made on the notes.

You should consult your own tax advisor concerning the U.S. federal income tax consequences to you of acquiring, owning, and disposing of the notes, as well as any tax consequences arising under the laws of any state, local, foreign, or other tax jurisdiction and the possible effects of changes in U.S. federal or other tax laws.

SUPPLEMENTAL PLAN OF DISTRIBUTION—conflicts of interest

Our broker-dealer subsidiary, MLPF&S, will act as our selling agent in connection with the offering of the notes. The selling agent is a party to the Distribution Agreement described in the "Supplemental Plan of Distribution (Conflicts of Interest)" beginning on page S-18 of the accompanying prospectus supplement.

The selling agent will receive the compensation set forth on the cover page of this pricing supplement as to the notes sold through its efforts. We or one of our affiliates may pay varying selling concessions of up to 1.00% in connection with the distribution of the notes to other registered broker-dealers.

The selling agent is a member of the Financial Industry Regulatory Authority, Inc. ("FINRA"). Accordingly, the offering of the notes will conform to the requirements of FINRA Rule 5121.

The selling agent is not acting as your fiduciary or advisor solely as a result of the offering of the notes, and you should not rely upon any communication from the selling agent in connection with the notes as investment advice or a recommendation to purchase the notes. You should make your own investment decision regarding the notes after consulting with your legal, tax, and other advisors.

Under the terms of our distribution agreement with MLPF&S, MLPF&S will purchase the notes from us on the issue date as principal at the purchase price indicated on the cover of this pricing supplement, less the indicated underwriting discount.

The current business of MLPF&S is expected to be reorganized into two affiliated broker-dealers: MLPF&S and a new broker-dealer, BofAML Securities, Inc. ("BofAMLS"). Under the contemplated reorganization, BofAMLS would become the new legal entity for the institutional services that are now provided by MLPF&S. MLPF&S would assign its rights and obligations as selling agent for the notes under our distribution agreement to BofAMLS effective on the "Transfer Date". Accordingly, if the pricing date of the notes occurs on or after the Transfer Date, BofAMLS will be responsible for the pricing of the notes. If the settlement date of the notes occurs on or after the Transfer Date, BofAMLS will, subject to the terms and conditions of the distribution agreement, purchase the notes from us as principal on the settlement date and BofAMLS will sell the notes to other broker-dealers that will participate in the offering as discussed in the prior paragraph.

MLPF&S may sell the notes to other broker-dealers that will participate in the offering and that are not affiliated with us, at an agreed discount to the principal amount. Each of those broker-dealers may sell the notes to one or more additional broker-dealers. MLPF&S has informed us that these discounts may vary from dealer to dealer and that not all dealers will purchase or repurchase the notes at the same discount.

MLPF&S and any of our other broker-dealer affiliates may use this pricing supplement, and the accompanying prospectus supplement and prospectus for offers and sales in secondary market transactions and market-making transactions in the notes. However, they are not obligated to engage in such secondary market transactions and/or market-making transactions. Our affiliates may act as principal or agent in these transactions, and any such sales will be made at prices related to prevailing market prices at the time of the sale.

None of this pricing supplement, the accompanying prospectus supplement nor the accompanying prospectus is a prospectus for the purposes of the Prospectus Directive (as defined below). This pricing supplement, the accompanying prospectus supplement and the accompanying prospectus have been prepared on the basis that any offer of notes in any Member State of the European Economic Area (the "EEA") which has implemented the Prospectus Directive (each, a "Relevant Member State") will only be made to a legal entity which is a qualified investor under the Prospectus Directive ("Qualified Investors"). Accordingly any

person making or intending to make an offer in that Relevant Member State of notes which are the subject of the offering contemplated in this pricing supplement, the accompanying prospectus supplement and the accompanying prospectus may only do so with respect to Qualified Investors. Neither BAC nor the selling agent have authorized, nor do they authorize, the making of any offer of notes other than to Qualified Investors. The expression "Prospectus Directive" means Directive 2003/71/EC (as amended, including by Directive 2010/73/EU), and includes any relevant implementing measure in the Relevant Member State.

PRIIPs Regulation / Prospectus Directive / Prohibition of sales to EEA retail investors – The notes are not intended to be offered, sold or otherwise made available to and should not be offered, sold or otherwise made available to any retail investor in the EEA. For these purposes, a retail investor means a person who is one (or more) of: (i) a retail client as defined in point (11) of Article 4(1) of Directive 2014/65/EU, as amended ("MiFID II"); or (ii) a customer within the meaning of Directive 2002/92/EC (the Insurance Mediation Directive), as amended, where that customer would not qualify as a professional client as defined in point (10) of Article 4(1) of MiFID II; or (iii) not a qualified investor as defined in the Prospectus Directive. Consequently no key information document required by Regulation (EU) No 1286/2014, as amended (the "PRIIPs Regulation") for offering or selling the notes or otherwise making them available to retail investors in the EEA has been prepared and therefore offering or selling the notes or otherwise making them available to any retail investor in the EEA may be unlawful under the PRIIPs Regulation.

The communication of this pricing supplement, the accompanying prospectus supplement, the accompanying prospectus and any other document or materials relating to the issue of the notes offered hereby is not being made, and such documents and/or materials have not been approved, by an authorized person for the purposes of section 21 of the United Kingdom's Financial Services and Markets Act 2000, as amended. Accordingly, such documents and/or materials are not being distributed to, and must not be passed on to, the general public in the United Kingdom. The communication of such documents and/or materials as a financial promotion is only being made to those persons in the United Kingdom who have professional experience in matters relating to investments and who fall within the definition of investment professionals (as defined in Article 19(5) of the Financial Services and Markets Act 2000 (Financial Promotion) Order 2005, as amended (the "Financial Promotion Order")), or who fall within Article 49(2)(a) to (d) of the Financial Promotion Order, or who are any other persons to whom it may otherwise lawfully be made under the Financial Promotion Order (all such persons together being referred to as "relevant persons"). In the United Kingdom, the notes offered hereby are only available to, and any investment or investment activity to which this pricing supplement, the accompanying prospectus supplement and the accompanying prospectus relates will be engaged in only with, relevant persons. Any person in the United Kingdom that is not a relevant person should not act or rely on this pricing supplement, the accompanying prospectus supplement or the accompanying prospectus or any of their contents.

MLPF&S Reorganization

As discussed above under "Supplemental Plan of Distribution — Conflicts Of Interest", the current business of MLPF&S is expected to be reorganized into two affiliated broker-dealers. Effective on the Transfer Date, BofAMLS will be the new legal entity for the institutional services that are now provided by MLPF&S. As such, beginning on the Transfer Date, the institutional services currently being provided by MLPF&S, including acting as selling agent for the notes, acting as principal or agent in secondary market-making transactions for the notes, and entering into hedging arrangements with respect to the notes, are expected to be provided by BofAMLS. Accordingly, references to MLPF&S in this preliminary pricing supplement as such references relate to MLPF&S's institutional services, such as those described above, should be read as references to BofAMLS to the extent these services are to be performed on or after the Transfer Date.

Events of Default and Rights of Acceleration

If an event of default (as defined in the Senior Indenture) occurs and is continuing, holders of the notes may accelerate the maturity of the notes, as described under "Description of Debt Securities—Events of Default and Rights of Acceleration" in the prospectus. Upon an event of default, you will be entitled to receive only your principal amount, and accrued and unpaid interest, if any, through the acceleration date. In case of an event of default, the notes will not bear a default interest rate. If a bankruptcy proceeding is commenced in respect of us, your claim may be limited, under the U.S. Bankruptcy Code, to the original public offering price of the notes.

ANNEX A

SUPPLEMENTAL TERMS OF NOTES

Early Repurchase

Subject to the procedures and terms set forth below, you may submit a request to have us repurchase all or a portion of your notes on any Repurchase Date during the term of the notes on or after the Initial Repurchase Date. Any repurchase request that we accept in accordance with the procedures and terms set forth below will be *irrevocable*.

To request that we repurchase your notes, you must instruct your broker or other person through which you hold your notes to take the following steps:

Send a notice of repurchase, substantially in the form attached as Annex B to this pricing supplement (a "Repurchase Notice"), to us via e-mail at sdca@baml.com *and* dg.ml&co_treasury_settlements@baml.com, with "Puttable Floating Rate Notes due November 9, 2058, CUSIP No. 06048WYA2" as the subject line. We must receive this notice no later than 4:00 p.m., New York City time, 15 business days prior to the relevant Repurchase Date. We or our affiliate must acknowledge receipt of the Repurchase Notice on the same business day for it to be effective, which acknowledgment will be deemed to evidence our acceptance of your repurchase request;

Instruct your DTC custodian to book a delivery versus payment trade with respect to your notes on the relevant Repurchase Date at a price equal to the Repurchase Amount payable upon early repurchase of the notes; and

Cause your DTC custodian to deliver the trade as booked for settlement via DTC at or prior to 10:00 a.m., New York City time, on the day on which the notes will be repurchased.

Please note that different brokerage firms may have different deadlines for accepting instructions from their customers. Accordingly, you should consult the brokerage firm through which you own your interest in the notes in respect of those deadlines. If we do not receive your Repurchase Notice by 4:00 p.m., New York City time, 15 business days prior to the relevant Repurchase Date, or we (or our affiliates) do not acknowledge receipt of the Repurchase Notice on the same day, your Repurchase Notice will not be effective, and we will not repurchase your notes. Once given, a Repurchase Notice may not be revoked.

The calculation agent will, in its sole discretion, resolve any questions that may arise as to the validity of a Repurchase Notice and the timing of receipt of a Repurchase Notice or as to whether and when the required deliveries have been made. Questions about the repurchase requirements should be directed to sdca@baml.com *and* dg.ml&co_treasury_settlements@baml.com.

ANNEX B

FORM OF REPURCHASE NOTICE

To: Bank of America Corporation

Subject: Puttable Floating Rate Notes, due November 9, 2058, CUSIP No. 06048WYA2

Ladies and Gentlemen:

The undersigned holder of the above-captioned securities (the "notes") hereby irrevocably elects to exercise, with respect to the number of the notes indicated below, as of the date hereof, the right to have you repurchase such notes on the Repurchase Date specified below as described in the pricing supplement dated November 7, 2018 relating to the notes. Terms not defined herein have the meanings given to such terms in the pricing supplement.

The undersigned certifies to you that it will (i) instruct its DTC custodian with respect to the notes (specified below) to book a delivery versus payment trade on the relevant Repurchase Date with respect to the number of notes specified below at a price per $1,000 principal amount note determined in the manner described in the pricing supplement, facing DTC 0161 and (ii) cause the DTC custodian to deliver the trade as booked for settlement via DTC at or prior to 10:00 a.m. New York City time, on the Repurchase Date.

Very truly yours,

[NAME OF HOLDER]

Name:
Title:
Telephone:
Fax:
e-mail:

Principal Amount of Notes Surrendered for Repurchase: $_____ (must be at least $100,000)

Applicable Repurchase Date: _____, 20__*

DTC # (and any relevant sub-account):

Contact Name:
Telephone:

Acknowledgment: I acknowledge that the notes specified above will not be repurchased unless all of the requirements specified in the pricing supplement are satisfied, including the acknowledgment by you or your affiliate of the receipt of this notice on the date hereof.

Questions regarding the repurchase requirements of your notes should be directed tosdca@baml.com *and* dg.ml&co_treasury_settlements@baml.com.

*Subject to adjustment as described in the pricing supplement and related prospectus supplement and prospectus.

the shareholders fail to ratify the selection, the Audit Committee will reconsider whether or not to retain this firm. We anticipate that a representative of EKS&H, who conducted the audits for the years ended December 31, 2008 and 2009, will be present at the Annual Meeting of Shareholders. There have been no disagreements on matters of accounting principles or practices, financial statement disclosures or audit scope or procedures between the Company and EKS&H, during the most recent fiscal year or any subsequent interim period. The representative of EKS&H will be available to respond to shareholder questions and will have the opportunity to make a statement at that time if the representative desires to do so.

Audit Fees

EKS&H

	2009	2008
Audit Fees (1)	$ 181,750	$ 184,571
Audit Related Fees	$ -	$ -
Tax Fees (2)	$ -	$ 31,000
All Other Fees (3)	$ 4,859	$ 6,309

(1) Includes annual and quarterly review services related to our Form 8-K, 10-Q, 10-K filings, Section 404 internal control audit service and review services related to the filings of Registration Statements on Form S-3 and Form S-8.

(2) Includes tax services related to the preparation of our 2007 Federal and State Tax Returns and 2008 estimated tax payments.

(3) Includes consultation services related to the application of certain accounting principles related to revenue recognition and financial statement disclosures.

Audit Committee Approval of Services

The Audit Committee pre-approves all audit or non-audit services performed by our independent accountant in accordance with Audit Committee policy and applicable law. The Audit Committee generally provides pre-approval of audit services and services associated with SEC registration statements, other SEC filings and responses to SEC comment letters (Audit Fees) and services related to internal control reviews, internal control reporting requirements and consultations with our management as to accounting or disclosure treatment of transactions or events and the impact of rules, standards or interpretations by the SEC and other regulatory or standard-setting bodies (Audit-Related Fees) for each 12-month period within a range of approved fees. To avoid certain potential conflicts of interest, the law prohibits us from obtaining certain non-audit services from our independent

accountant. The Audit Committee has delegated authority to approve permissible services to its Chairman. The Chairman reports such pre-approvals to the full Audit Committee at its next scheduled meeting. The Audit Committee pre-approved 100% of the services provided by the independent accountants in 2009. None of the services of the independent accountants in 2009 were of the type specified in Rule 2-01(c)(7)(i)(C) of SEC Regulation S-X.

PROPOSAL NO. 3

STOCK ISSUANCE PLAN ISSUANCE OF SHARES OF THE COMPANY S COMMON STOCK IN EXCESS OF 20% OF THE AMOUNT OF OUR EXISTING OUTSTANDING SHARES AND NOT MORE THAN 3.5 MILLION SHARES, INCLUDING SHARES OF COMMON STOCK POTENTIALLY UNDERLYING PREFERRED STOCK, OPTIONS AND/OR WARRANTS IN CONNECTION WITH RAISING CAPITAL FOR IMPLEMENTING OUR GROWTH PLANS AND FOR GENERAL WORKING CAPITAL PURPOSES

Background and Overview

We currently anticipate the likely need to raise additional capital to finance our growth plans which include additional refined coal facilities and opportunities in the growing mercury emission control market, as well as for general working capital purposes. We believe that it would be beneficial for the Company to be positioned to raise capital for future financing needs on an expedited basis in order to take advantage of the timing of favorable market conditions, and which may be on terms and conditions where the issuance of the security is not restricted or otherwise limited upon issuance, conversion or exercise.

Because our common stock is listed for trading on the NASDAQ Capital Market, the issuance of our common stock, or securities that are convertible or exercisable into common stock, is subject to the NASDAQ Marketplace Rules, including:

- Rule 5635(b), which requires shareholder approval prior to the issuance of securities when the issuance or potential issuance will result in a change of control of the Company (the Change of Control Rule); and
- Rule 5635(a)(1)(A-B), which requires shareholder approval where the transaction is other than a public offering for cash and the common stock has or will have upon issuance voting power equal to or in excess of 20% of the voting power outstanding before the issuance, or the number of shares of common stock to be issued is or will be equal to or in excess of 20% of the number of shares of common stock outstanding before the issuance (the 20% Rule).

We are therefore seeking your approval now for the issuance of common stock or securities exercisable for or convertible into common stock that, absent such approval, would violate the Change of Control Rule and/or the 20% Rule. If this proposal is approved, we will be able to engage in a financing transaction or a series of financing transactions in which we will be allowed to issue more than 20% of our outstanding common stock (as of the date prior to the newly authorized issuance) but not more than a total of 3.5 million shares, either directly, upon conversion of a preferred stock, or through the exercise of warrants issued in that financing.

Potential Dilutive Effect on Existing Shareholders

Regardless of the type of security that is issued in connection with any future capital raising efforts, it is anticipated that such security or securities will constitute, either directly or by conversion or exercise, more than 20% of our then-issued and outstanding common stock and, accordingly, could be materially and substantially dilutive to our existing shareholders. We currently anticipate raising up to $25 to $35 million in new capital from a future financing or series of future financings. The terms of any such financing have not been determined at this time. However, we would issue no more than 3.5 million shares of our common stock (either directly or by the conversion of preferred stock and the exercise of warrants that would be issued in connection with any such direct common stock or preferred stock issuance or issuances). As a result, the maximum amount of dilution that may be experienced by current shareholders would be an aggregate of 3.5 million shares of common stock underlying the securities that may be issued in any such financing or financings.

We currently anticipate that in connection with such financing or series of financings, we will issue either common stock, convertible preferred stock, warrants, or some combination thereof, which could result in gross proceeds to us of up to $35 million in the aggregate, exclusive of any proceeds we may receive upon exercise of warrants that may be issued in such a financing. The future issuance price, conversion price or exercise price, as applicable, will probably be determined in relation to

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the market price of our common stock at the time of the issuance. Consequently, it is impossible to determine what that price might be. Accordingly, we can only provide you with information based upon the maximum amount of dilution you would experience if we issued 3.5 million shares (the maximum number of shares reserved for such purposes) in any such future financing or financings.

Finally, in order to provide our existing shareholders with as much dilution protection as possible, the price per share, conversion price or exercise price, as applicable, will not be greater than a 15% discount to the market price of our common stock at such time, which will be determined by our Board and may be based on a range of market prices over a certain time period or on a date certain.

Use of Proceeds from the Financing

As described in detail in our Annual Report on Form 10-K, we develop and implement proprietary environmental technology and provide specialty chemicals that enable coal-fueled power plants to enhance existing air pollution control equipment, maximize capacity and improve operating efficiencies. As a part of this business, we are actively involved in (1) designing, constructing and placing into operation refined coal facilities that qualify for tax credit under Section 45 of the IRC, and (2) designing, marketing and supplying mercury emissions control systems to coal-fueled power plants. Both of these areas provide near-term growth opportunities for the Company as discussed below, and are areas in which we may use proceeds from the issuance of securities pursuant to the Stock Issuance Plan.

Refined Coal Facilities

In 2006, we established Clean Coal Solutions, LLC as a joint venture with an affiliate of NexGen Resources Corporation, to market our patented refined coal technology that reduces emissions of NO_X and mercury from certain coals in cyclone boilers. Clean Coal s primary purpose is to qualify for Section 45 Tax Credits under the Internal Revenue Code of 1986, as amended (the IRC), which are obtained through the placing into service of facilities that produce refined coal (as defined in the IRC). In 2009 Clean Coal pursued several opportunities for placing refined coal facilities into service, ultimately placing two such facilities in service prior to January 1, 2010, both of which demonstrated the required emission reductions for their refined coal product to qualify for the tax credits. We are continuing to work with Congress and consultants in Washington, D.C. to pursue an extension of the deadline to qualify for the tax credits. The design, construction and placement into service of additional refined coal facilities that qualify for the tax credits would require capital investment by the Company.

Mercury Emission Control

We have been involved in developing and implementing technology for the control of hazardous pollutants from coal-fired boilers since 2000. Pursuant to the resolution of recent litigation, the U.S. Environmental Protection Agency has agreed to adopt rules reducing hazardous air pollutants (HAP) by November 2011, with implementation in 2014. These rules will establish a Maximum Achievable Control Technology (MACT)-based HAP regulation, which we believe will include the requirement to control mercury, organic compounds, volatile metals such as arsenic and selenium and acid gases such as hydrochloric acid from power plants. Additional regulation may require MACT-based mercury emissions regulation for the Portland cement industry or stricter mercury emissions control generally. We believe these new regulations will expand the market for our activated carbon injection (ACI) systems in North America. We have garnered an approximate 30% market share of ACI systems sold in North America. Pursuit of opportunities to maintain a similar market share in an expanding market will require investment of capital. We have also been engaged in the design and construction of an activated carbon manufacturing facility in Louisiana through an investment in ADA Carbon Solutions, LLC a venture which we are pursuing with Energy Capital Partners I, LP and its affiliated funds and expect to have the opportunity to invest in expanded AC production through ADA Carbon Solutions, which would require investment capital.

Forward-Looking Statements

The above description of our growth strategy contains forward-looking statements that are subject to risks, uncertainties and other factors that could cause actual results to differ materially from those referred to in the forward-looking statements. All statements other than statements of historical fact are statements that could be deemed forward-looking statements, and include statements relating to whether Congress will pass an extension of the deadline to qualify for Section 45 tax credits, whether Clean Coal will be able to place additional refined coal facilities into service; whether the MACT-based HAP regulations will include the requirement to control mercury, organic compounds and other metals and acid gases from power plants; whether new regulations will target the Portland cement industry; whether any new regulations expand the market for our ACI systems; whether we will be able to take advantage of an expanded market for ACI systems; and whether we would have the opportunity to invest in expanded AC production through ADA Carbon Solutions. Risks, uncertainties and assumptions include those described in our SEC filings

and especially in our most recent Annual Report on Form 10-K, filed with the SEC on March 29, 2010. These filings are available on a web site maintained by the SEC at http://www.sec.gov. If any of these risks or uncertainties materializes or any of these assumptions proves incorrect, our results could differ materially from the expectations described in these statements.

Working Capital

In addition to, or instead of, the potential implementation of any or all of the growth strategies outlined above, we may use proceeds from the issuance of shares pursuant to the Stock Issuance Plan for general working capital purposes, including for satisfying indemnity obligations.

Necessity for Shareholder Approval

The NASDAQ Marketplace Rules include both the Change of Control Rule and the 20% Rule. Our Amended and Restated Articles of Incorporation allow us to issue both common stock and preferred stock, and the Board can designate the rights, preferences and privileges of any series of preferred stock. However, unless the securities are issued in a public offering, the issuance of common stock or the conversion of any such preferred stock that has a conversion price below the market price on the date of issuance must comply with the 20% Rule, or if the conversion price is at or above market and the conversion would result in the issuance of greater than 20% of the outstanding common stock on a post-conversion basis, such issuance must comply with the Change of Control Rule. Although we do not yet know the price of the securities to be offered in a future financing or series of financings, we are seeking shareholder approval at this time in order to be able to complete any such future financings in a timely manner in order to allow us to take advantage of favorable market conditions or heightened investor interest. Furthermore, we believe that the ability to issue securities without restriction on the issuance, conversion or exercise thereof will provide us with better leverage in negotiating the terms of any such future financing with potential investors.

In order to enable the Company to issue common stock, or allow purchasers of preferred stock or warrants to fully convert or exercise such securities, we must comply with the shareholder approval requirements of either the 20% Rule for any anticipated financing (other than in a public offering) where we propose to issue securities at a price below existing market, or the Change of Control Rule for any anticipated financing where we propose to issue securities at a price at or above market. We do not have terms, including the price of the securities issuable pursuant to the proposed financing, at this time, although the maximum amount of common stock or securities convertible into common stock discussed above will be the maximum amount of dilution experienced by our current shareholders as a result of any such issuance.

Required Vote

NASDAQ rules require that the Stock Issuance Plan receive the affirmative votes of a majority of the votes cast, in person or by proxy, at the Annual Meeting. Abstentions are treated as shares present or represented and entitled to vote at the Annual Meeting, but will have the same effect as a vote against this proposal. Broker non-votes are not deemed to be present and represented and are not entitled to vote, and therefore will have no effect on the outcome of this proposal.

Recommendation

The Board believes that it is in the Company s best interest for the shareholders to authorize the issuance of securities in a subsequent financing or series of financings as described herein, so that the Company can take advantage of market conditions and raise capital as needed to fund the Company s expansion plans and general working capital needs.

OUR BOARD OF DIRECTORS RECOMMENDS A VOTE FOR THE PROPOSAL TO APPROVE THE STOCK ISSUANCE PLAN FOR THE ISSUANCE OF SHARES OF THE COMPANY S COMMON STOCK IN EXCESS OF 20% OF THE AMOUNT OF OUR EXISTING OUTSTANDING SHARES AND NOT MORE THAN 3.5 MILLION SHARES, INCLUDING SHARES OF COMMON STOCK POTENTIALLY UNDERLYING PREFERRED STOCK, OPTIONS AND WARRANTS.

EXECUTIVE OFFICERS

Information concerning our executive officers who are not director nominees is provided below. See Election of Directors above for information regarding Dr. Durham and Mr. McKinnies.

Name	Age	Positions and Offices
Jonathan S. Barr	52	Vice President Sales and Marketing
C. Jean Bustard	52	Chief Operating Officer
Cameron E. Martin	52	Vice President Emissions Control
Richard L. Miller	56	Vice President Business Development for Utility Systems
Richard J. Schlager	58	Vice President Administration
Sharon M. Sjostrom	43	Vice President Technology

Each of the officers named above serves at the pleasure of the Board.

Mr. Barr has been Vice President Sales and Marketing of the Company since July 2004. From 1998 to early 2004, Mr. Barr was a National Vice President of Sales and Regional Vice President of Sales and Marketing for Arch Coal. From 1994 to 1998, Mr. Barr was with the C&O unit of CSX Transportation, where he served as the Director of River Coal Marketing and Market Manager for Utility Coal. Mr. Barr has a B.S. in Political Science/Business Administration from Wittenberg University.

Ms. Bustard was appointed Chief Operating Officer of the Company in June 2004. Ms. Bustard has served as Interim President of ADA Carbon Solutions, our 33% owned joint venture with Energy Capital Partners I, LP and its affiliated funds, since October 2008. Prior to her appointment as COO, she served as Executive Vice President of ADA Environmental Solutions, LLC, our wholly-owned subsidiary, beginning with its formation in 1996. Ms. Bustard was employed by ADA Technologies from 1988 through 1996. Ms. Bustard holds a B.S. in Physics Education from Indiana University, an M.A. in Physics from Indiana State University and an Executive MBA from the University of Colorado.

Mr. Martin was appointed Vice President of Emissions Control of the Company in December 2007. Prior to that appointment he served the Company as a Director of Mercury Control since 2003, Director of Engineering since 1997 and Project Manager in 1996. Mr. Martin has a B.S. in Environmental Science from West Virginia University.

Mr. Miller has served as our Vice President of Business Development since November 2005. He was previously employed by Hamon Research-Cottrell (HRC), from 1990 to November 2005, most recently as Vice President of Sales with primary responsibility in Particulate and Mercury Control Technologies. Prior to 1989, Mr. Miller was employed by Buell/GE Environmental in various technical and sales positions with direct responsibility for all fabric filter technologies. Mr. Miller currently serves as Co-Chair of the Institute of Clean Air Companies (ICAC) Mercury Control division and has previously served as Chairman of ICAC s Fabric Filter Division. Mr. Miller has an A.A.S. in Marine Science Technology from Southern Maine University, a B.S. Degree in Management from Lebanon Valley College and an Executive MBA from Colorado Technical University.

Mr. Schlager was appointed as our Vice President of Administration of the Company in August 2007. Prior to that appointment he served as the Vice President, Contract Research and Development since 2000 and was employed by ADA Technologies from 1989 until that time. Mr. Schlager holds a B.S. in Chemistry and an M.S. in Metallurgical Engineering from the Colorado School of Mines.

Ms. Sjostrom was appointed a Vice President effective January 1, 2007. Previously she served the Company as Director, Technology Development since 2003 when we acquired her company EMC Engineering, LLC, where she served as President since 2002. From 1998 until September 2002, Ms. Sjostrom served as Director of Emissions Control for Apogee Scientific, LLC. Ms. Sjostrom has a B.S. in Mechanical Engineering from Colorado State University, an M.S. in Mechanical Engineering from the California Institute of Technology and an Executive MBA from the University of Denver.

SECURITY OWNERSHIP OF CERTAIN BENEFICIAL SHAREHOLDERS AND MANAGEMENT AND RELATED

SHAREHOLDER MATTERS

The following table provides information with respect to the beneficial ownership of the Company s common stock by (1) each of our shareholders whom we believe are beneficial owners of more than 5% of our outstanding common stock, (2) each of our

directors and named executive officers and (3) all of our directors and executive officers as a group. We base the share amounts shown on each person s beneficial ownership as of April 19, 2010 (including options exercisable within 60 days thereof), unless we indicate some other basis for the share amounts. Percentage ownership is calculated based on 7,410,976 shares outstanding as of April 19, 2010. Except as noted below, each of the individuals named below has sole voting and investment power for the respective shares.

Name and Address	Amount and Nature of Beneficial Ownership	Percent of Class
Jonathan S. Barr (VP Sales and Marketing) 8100 SouthPark Way, Littleton, CO	53,264(1)	*
C. Jean Bustard (Chief Operating Officer) 8100 SouthPark Way, Littleton, CO	108,105(2)	1.4%
Robert N. Caruso (Director) 8100 SouthPark Way, Littleton, CO	23,147(3)	*
Michael D. Durham (Director, President and CEO) 8100 SouthPark Way, Littleton, CO	285,569(4)	3.7%
John W. Eaves (Director) 8100 SouthPark Way, Littleton, CO	282,483(5)	3.7%
Derek Johnson (Director) 8100 SouthPark Way, Littleton, CO	23,083(6)	*
Ronald B. Johnson (Director) 8100 SouthPark Way, Littleton, CO	26,105(7)	*
W. Phillip Marcum(Director) 8100 SouthPark Way, Littleton, CO	27,960(8)	*
Cameron E. Martin (VP Emissions Control) 8100 SouthPark Way, Littleton, CO	26,553(9)	*
Mark H. McKinnies (Director, Secretary, Senior VP and CFO) 8100 SouthPark Way, Littleton, CO	143,786(10)	1.9%
Richard Miller (VP Business Development for Utility Systems) 8100 SouthPark Way, Littleton, CO	40,001(11)	*
Richard J. Schlager (VP Administration) 8100 SouthPark Way, Littleton, CO	56,526(12)	*
Sharon M. Sjostrom (VP Technology) 8100 SouthPark Way, Littleton, CO	23,969(13)	*
Jeffrey C. Smith (Director) 8100 SouthPark Way, Littleton, CO	34,248(14)	*
Stiassni Capital Partners, LP, Stiassni Capital, LLC and Nicholas C. Stiassni 3400 Palos Verdes Drive West, Rancho Palos Verdes, CA 90275	607,750(15)	8.2%
Richard Swanson (Director)	22,891(16)	*

8100 SouthPark Way, Littleton, CO

Directors and Officers as a Group (15 individuals)	**1,177,690(17)**	**13.7%**

* Less than 1%.

Notes:

(1) Included in the amount shown are 39,600 shares to which Mr. Barr has the right to acquire beneficial ownership through stock options and 3,472 shares held in Mr. Barr s Retirement Plan account.

(2) Included in the amount shown are 24,543 shares to which Ms. Bustard has the right to acquire beneficial ownership through stock options, 26,000 shares of restricted stock which have not yet vested and are subject to certain repurchase rights and 14,969 shares held in Ms. Bustard s Retirement Plan account.

(3) Included in the amount shown are 5,000 shares to which Mr. Caruso has the right to acquire beneficial ownership through stock options.

(4) Included in the amount shown are 50,863 shares held in Dr. Durham s Retirement Plan account, 32,500 shares of restricted stock which have not yet vested and are subject to certain repurchase rights, and 49,010 shares to which Dr. Durham has the right to acquire beneficial ownership through stock options.

(5) Included in the amount shown are 1,000 shares held directly by Mr. Eaves and 281,483 shares held by Arch Coal, Inc. Mr. Eaves is President, Chief Operating Officer and director of Arch Coal, Inc. and disclaims beneficial ownership of such shares.

(6) Included in the amount shown are 5,000 shares to which Mr. Johnson has the right to acquire beneficial ownership through stock options.
(7) Included in the amount shown are 22,772 shares held by the Johnson Family Trust and 3,333 shares to which Mr. Johnson has the right to acquire beneficial ownership through stock options.
(8) Included in the amount shown are 5,000 shares to which Mr. Marcum has the right to acquire beneficial ownership through stock options.
(9) Included in the amount shown are 2,417 shares to which Mr. Martin has the right to acquire beneficial ownership through stock options, 886 shares of restricted stock which have not vested and are subject to certain repurchase rights and 8,587 shares held in Mr. Martin s Retirement Plan account.
(10) Included in the amount shown are 36,160 shares held in Mr. McKinnies Retirement Plan account, 500 shares held as trustee for the MJ Kraft Trust, 26,500 shares of restricted stock which have not vested and are subject to certain repurchase rights and 34,210 shares to which Mr. McKinnies has the right to acquire beneficial ownership through stock options.
(11) Included in the amount shown are 13,000 shares to which Mr. Miller has the right to acquire beneficial ownership through stock options, 1,500 shares of restricted stock which have not vested and are subject to certain repurchase rights and 3,465 shares held in Mr. Miller s Retirement Plan account.
(12) Included in the amount shown are 28,300 shares to which Mr. Schlager has the right to acquire beneficial ownership through stock options and 15,828 shares held in Mr. Schlager s Retirement Plan account.
(13) Included in the amount shown are 2,363 shares to which Ms. Sjostrom has the right to acquire beneficial ownership through stock options and 4,304 shares held in Ms. Sjostrom s Retirement Plan account.
(14) Included in the amount shown are 5,000 shares to which Mr. Smith has the right to acquire beneficial ownership through stock options.
(15) As of December 31, 2009 per joint Schedule 13G/A filed with the SEC on February 26, 2010, which reported as follows: Stiassni Capital Partners, LP owns all of the 607,750 shares, and Stiassni Capital, LLC is the general partner of Stiassni Capital Partners, LP. Mr. Nicholas C. Stiassni is managing member of Stiassni Capital LLC. Stiassni Capital Partners, LP, Stiassni Capital, LLC and Mr. Stiassni all have shared voting and dispositive power over the 607,750 shares.
(16) Included in the amount shown are 5,000 shares to which Mr. Swanson has the right to acquire beneficial ownership through stock options.
(17) The amount shown includes options to purchase 221,776 shares of our common stock held by individuals in the group.

EXECUTIVE COMPENSATION

Compensation Discussion and Analysis

Our philosophy for executive compensation is set forth in a document entitled ADA-ES Executive Compensation Plan (the EC Plan) which was adopted by the Board on November 4, 2004. The EC Plan applies to the Executive Team, which includes the President/Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, and all Vice Presidents of the Company. Executives become eligible to participate in this plan after completing 12 months of continuous service with ADA-ES. Participation may be modified based on the Board s approval.

The Compensation Committee establishes the base salary for all executive officers and establishes annual performance incentives. The CEO makes recommendations as to base salary of all other executive officers to the Committee. Base salary is defined as ongoing, cash compensation paid bi-weekly based on such factors as job responsibilities, external competitiveness, and the individual s experience and performance. Pay ranges are set based on the local market for similar positions, with consideration given to regional and national rates of pay for employees serving similar functions in comparable companies. Base salary is typically increased annually based on cost of labor/living increases. In determining appropriate merit increases, we consider the actual market change for various job families in addition to published local CPI-U data. The market change is determined by tracking the year-over-year change in the median rate for a given position or job family using regional salary surveys. ADA-ES attempts to ensure middle market pay for solid performers and consider higher levels of pay for outstanding performers. ADA-ES does not intend to be a market leader in base compensation. A decision to materially increase or decrease compensation would be based on the aforementioned factors. In the second quarter of 2009 we instituted programs to conserve cash and working capital including a 30% reduction in cash compensation paid to certain executive officers. Such reductions are reflected in the Summary Compensation table shown below.

Annual performance incentives are designed to motivate the management team to achieve critical short-term goals, typically one to two years, which are expected to contribute to the long-term health and value of the organization. Incentives may be paid in cash or equity as determined by the Board. We expect that for the next few years, payment will be primarily in stock. We generally grant restricted stock awards to new executives at the Board meeting following the commencement of employment.

Incentive amounts are set based on organization level and market practices. The performance metrics under the EC Plan focus on specific business objectives set during the first half of each year. Objectives are those quantitative metrics, such as revenue and working capital, which management and the Board determine are most important to the short and long term health and value of the organization. Potential incentive amounts for 2008 and 2009 performance were established at 50% and 40% of base salary for the CEO and other members of the executive team, respectively.

In 2004, we adopted the Executive Stock Option Plan (the 2004 ESO Plan) discussed below, and granted all 200,000 options authorized under such plan to our then five executive officers, expecting to utilize the acceleration of vesting of such options, for so long as they are available, as the means to pay any incentive amounts earned by the executive officers pursuant to the EC Plan who are also covered in the 2004 ESO Plan for the following several years. Because the exercise prices of the outstanding options far exceeded our stock price, in early 2009, the Board vested all remaining outstanding stock options including those remaining in the 2004 ESO Plan. We have not granted options to the executive officers who received options under the 2004 ESO Plan since 2004. Our share-based compensation, including options granted under the 2003 Plan and the 2004 ESO Plan, is accounted for under the Statement of Financial Accounting Standards No. 123R (See Footnote 1 to the Consolidated Financial Statements included in Item 8 of our Form 10-K for the year ended December 31, 2009).

Summary of vested shares from the 2004 ESO Plan:

	Shares	Option Exercise Price
Shares on January 1, 2005	172,920	-
2005 Vested	38,428	$8.60
2006 Vested	17,258	$8.60
2007 Vested	-	-
2008 Vested	-	-
2009 Vested	117,234	$8.60

Options granted under the 2004 ESO Plan are non-qualified stock options (NQSO). The Compensation Committee chose NQSOs as a means to pay any incentive amounts earned by the executive officers pursuant to the EC Plan because it believed such options aligned the interests of the executive officers with the interest of our shareholders, provided potential additional value from appreciation and allowed the recipient to determine the timing of tax consequences from the award. From a practical standpoint, such an approach does not work if the market price of the stock is at or near the option exercise price.

Annual incentive awards under the EC Plan for the CEO and the other executive officers as a group are made by the Compensation Committee in January or February of each year with respect to the previous year s performance. The CEO has the discretion to allocate the incentive pool set by the Committee to the other executive officers, subject to final approval by the Committee Chairman over such allocations. Annual incentives, if any, are planned for payment by February 28th of the calendar year following the incentive period. Incentives paid in cash are subject to payroll taxes. These incentives can be deferred and paid to a designated beneficiary, although that has not been the case with any incentives awarded thus far. In early 2009 the Compensation Committee approved an incentive award earned by executive officers based on 2008 performance under the EC Plan and a discretionary award with a value of approximately $400,000 in the aggregate for the CEO and the other executive officers as a group (the 2008 Incentive Award). The Compensation Committee allocated 25% of the 2008 Incentive Award to the CEO and gave the CEO discretion to allocate the remaining $300,000 to the other executive officers. Each executive officer could elect to receive up to 50% of his or her portion of the 2008 Incentive Award in cash. In early 2010 the Compensation Committee approved an incentive award earned by executive officers based on 2009 performance under the EC Plan with a value of approximately $210,000 in the aggregate for the CEO and the other executive officers as a group (the 2009 Incentive Award). The Compensation Committee allocated 25% of the 2009 Incentive Award to the CEO and gave the CEO discretion to allocate the remaining $157,500 to the other executive officers. Each executive received 100% of his or her portion of the 2009 Incentive Award in the Company s stock to the extent issuance was not capped by the annual per share limit of the 2007 Plan (defined below).

From time to time the Board may recognize exemplary performance of any executive with a cash or stock award. Exemplary performance is performance that the Board determines to have required significant effort and commitment and is determined to have had a significant positive impact on the current or future performance of the organization. No such payments were made in 2009.

The use of equity payments, such as using accelerated vesting of options granted under the 2004 ESO Plan to make incentive payments and the award of stock-based incentives for achieving specific project milestones, is intended to link short-term success to long-term performance and

decision making, and to align management and shareholder interests. Payments may be made in

shares or options, as determined by the Board, considering accounting and regulatory restrictions, and the financial condition of the Company. The stock portions of the 2009 Incentive Award and the 2008 Incentive Award are shown below in the Summary Compensation table under the Stock Award column. The cash portions of the 2008 Incentive Award are shown below in the Summary Compensation table under the Bonus column.

Crowfoot Incentive Program for Certain Executive Management

In March 2008, the Compensation Committee and the Board approved an incentive program (the Crowfoot Incentive Program) pursuant to the 2007 Plan under which 172,500 shares of ADA-ES common stock were awarded (but not vested) to four of our executive officers and an independent consultant as an incentive for the executives and the consultant to work diligently to attain certain milestones related to progress on the development, construction and operation of our activated carbon production facility. The facility is being developed by Red River Environmental Products, LLC, a wholly-owned subsidiary of ADA Carbon Solutions, LLC (formerly known as Crowfoot Development, LLC), our joint venture with Energy Capital Partners I, LP and its affiliated funds.

The eligible recipients of awards under the Crowfoot Incentive Program, and the number of shares awarded to each, are as follows: Michael Durham 57,500 shares, Mark McKinnies 46,000 shares, C. Jean Bustard 46,000 shares, Richard Miller 11,500 shares and Financial Consultant 11,500 shares. A portion of the shares awarded to each of the recipients vests upon attainment of each defined milestone. In no event will the shares attributable to a milestone vest in the recipient if the milestone is not attained by a certain date (unless the milestone due date is extended, as described below).

The milestones under the Crowfoot Incentive Program are as follows:

Strategic Partner Plus Promote
Off-Take Contracts
Financial Close; and
Project Schedule Plant Start Up

Each milestone has a target date by which the milestone is intended to be satisfied. The number of shares that become eligible for vesting diminishes by five percent (5%) of the number committed to a particular milestone for each month after the target date that the milestone remains unsatisfied. Therefore, if a particular milestone remains unsatisfied for twenty months after its target date, no shares will ever vest for that milestone and all shares attributed to that milestone will be eligible for repurchase by the Company for $.01 per share. Each recipient can request that we purchase up to 35% of the shares upon vesting for the fair market value of the shares (as defined in the 2007 Plan) to assist the recipient with tax obligations that may be owing at the time of vesting. The determination as to whether to purchase such shares rests solely in our discretion. On October 15, 2008, the Compensation Committee amended the Crowfoot Incentive Program to extend the dates for attainment of all of the defined milestones for five months from their respective original due dates due to delays in the project largely resulting from the acquisition of our designated engineering, procurement and construction company, which the Compensation Committee determined should not penalize the Program grantees. In addition, the Strategic Partner Plus Promote milestone deadline was waived for the same reasons.

The Compensation Committee determined that the Strategic Partner Plus Promote milestone was attained on October 1, 2008, and all of the shares of Common Stock dedicated to that Milestone (totaling 35,833 shares, including 32,500 granted to four of our officers) vested on November 10, 2008 (the next available date within an open trading window) . The officers whose shares vested as a result of attainment of this milestone are Dr. Michael Durham (12,500 shares), Mr. Mark McKinnies (10,000 shares) and Ms. C. Jean Bustard (10,000 shares).

The Compensation Committee determined that the Off-Take Contracts Milestone was attained on November 12, 2009, and all of the shares of Common Stock dedicated to that Milestone (totaling 45,833 shares, including 42,500 shares granted to four of our executive officers) vested on that date. The named executive officers whose shares vested as a result of the attainment of this Milestone are Dr. Michael Durham (12,500 shares), Mr. Mark McKinnies (10,000 shares), Ms. C. Jean Bustard (10,000 shares) and Mr. Richard Miller (10,000 shares).

On March 25, 2010, the Compensation Committee amended the Crowfoot Incentive Program to extend the date for attainment of the Financial Close milestone. The due date for the Financial Close milestone was extended by 15.5 months from the previous due date as a result of delays in obtaining project financing that we believe were primarily caused by general economic conditions, which the Compensation Committee decided should not penalize the Program grantees.

Stock Price Incentive Program for Certain Executive Management

In April 2008, the Compensation Committee established a Stock Price Incentive Program, for which 100,000 shares were reserved under the 2007 Plan. Any or all of the shares may be granted to executive officers, but as of this time, no awards have been made and no determination has been made as to which executive officers, if any, will be awarded shares or how many shares will be awarded. The restricted stock expected to be awarded pursuant to such program will vest on the day after the price (based on last sale price for a trading day) of our common stock has equaled or exceeded $35.00 a share for 20 consecutive trading days, provided such price occurs on or before April 15, 2011.

Refined Coal Activities Supplemental Compensation Plan

The Compensation Committee of our Board to Directors has given conceptual approval to the establishment of a supplemental compensation plan to be called the Refined Coal Activities Supplemental Compensation Plan pursuant to which a fund will be established consisting of seven percent (7%) of the net profit, on a cash received basis, resulting from the Company s Refined Coal Activities (as defined in the Plan), which will be determined based on the Net Contribution Margin, as defined, of each activity contributing to the Plan. As of this time, Refined Coal Activities include only the activities being carried out through our Clean Coal joint venture with NexGen, although the Compensation Committee can designate other activities to be included in the Plan. The amount available to the fund will be based on full cost accounting from the start of the activity contributing revenue to the fund, and revenue from any given customer will be included in the Plan for three years from the date revenue is first received from the customer. The amount available for distribution under the Plan will be calculated and paid annually following the close of our fiscal year. Three percent of the net profit, if any, from Refined Coal activities (42.86% of the fund) will be paid to the Company s Chief Executive Officer, Michael Durham, and four percent of the net profit (57.14% of the fund) will be paid to eligible Plan participants (consisting of employees, contractors and consultants) who will be chosen annually by Dr. Durham (following the end of each fiscal year), based on their contributions to our Refined Coal Activities during the prior fiscal year. Final terms and conditions of the Plan are subject to final approval by the Compensation Committee of the Board of Directors.

Other Aspects of Executive Employment

There is no severance pay policy or other benefits payable after termination for any executive. See Employment Contracts and Termination of Employment and Change-in-Control Arrangements below regarding executives obligations after termination.

In the event of a restatement of income, any overpayments made to executives may be reclaimed at the discretion of the Board of Directors.

In 2006 we obtained key person term insurance for our CEO, COO and CFO in the amount of $2 million for each individual. In 2008 the key person term insurance for our CEO was increased to $10 million, and in 2009 it was reduced to $5 million. The policies may be assigned to the individuals upon termination of employment other than for cause whereupon the executive would be responsible for any premium payments.

Executives are encouraged to own a number of shares of stock equal to a value of at least one (1) times the annual base salary as a condition of continued employment with ADA-ES. Executives have five (5) years from the later of November 4, 2004 (the date the EC Plan was adopted) or the date of hire/promotion to accomplish this level of ownership. Ownership is calculated considering holdings of restricted stock, whether or not the restrictions have expired, private holdings, and shares held in retirement accounts. Holding of options also will be considered in the ownership calculation by adding the value of the spread of in-the-money options to the total value of other holdings. The Compensation Committee reviewed executive equity ownership against the ownership goals for our executives in January 2010.

After ownership requirements have been met, executives may sell unrestricted stock they have owned for a period greater than 12 months, and may exercise vested stock options and sell shares to pay for the exercise price and withholding tax, except as otherwise provided for in the underlying stock option agreement. The Company must be advised of any sale of stock options or shares of stock at least 30 days in advance or the executive must be engaged in a pre-announced program sale in compliance with federal securities laws, and such sales must be made in compliance with our insider trading policy.

Executives leaving the Company may be required to hold their stock in the Company for at least 6 months after leaving the Company.

Our Retirement Plan covers all eligible employees. Pursuant to that plan, we make matching contributions to each eligible employee s account up to 7% of the employee s eligible compensation, and may make, at the discretion of the Board, contributions based on the profitability of the Company to those accounts. Beginning in June 2009, we have made our matching contributions in shares of the Company s common stock. No discretionary contributions were made to the Plan in either 2008 or

2009. Investments in an employee s account may be made in stocks, bonds, mutual funds and other investments permitted by the Plan s administrator.

Employee contributions to the plan are 100% vested. Company contributions become 100% vested if an employee s employment ends after the date such employee attains normal retirement age (age 65), dies or becomes disabled. If an employee s employment is terminated prior to the date the employee attains normal retirement age (65) or dies or becomes disabled, the employee will become vested in the Company s matching contributions and any discretionary contributions according to the schedule below:

Years of Vesting Service	Vested Percentage
Less than 2	0%
2	20%
3	40%
4	60%
5	80%
6 or more	100%

The following summary compensation table shows compensation during the fiscal years ended December 31, 2009 and 2008 of those persons who were, at December 31, 2009, our principal executive officer (PEO), and the two most highly compensated executive officers other than the PEO (collectively, the NEOs). Mark McKinnies is our principal financial officer (PFO). The structure of pay for each NEO is the same, although as noted above the potential incentive amounts under the EC Plan for 2008 and 2009 performance were established at 50% of base salary for the PEO and 40% of base salary for other NEOs.

Summary Compensation Table for Years Ended December 31, 2008 and 2009

Name of Individual and Principal Position	Year	Salary ($)(1)	Bonus ($)(2)	Stock Awards ($)(3)	Option Awards ($)	Non-Equity Incentive Plan Compensation ($)	Nonqualified Deferred Compensation Earnings ($)	All Other Compensation ($) (4)	Total ($)
Michael D. Durham	2009	$209,651	$-0-	$ 84,220	$-0-	$-0-	$-0-	$13,438	$307,309
President, CEO and	2008	$236,443	$50,000	$270,411	$-0-	$-0-	$-0-	$16,539	$573,483
Director (PEO)									
Mark H. McKinnies	2009	$175,274	$-0-	$ 60,990	$-0-	$-0-	$-0-	$11,077	$247,341
Senior VP, CFO and	2008	$197,471	$35,000	$252,374	$-0-	$-0-	$-0-	$13,417	$498,262
Director (PFO)									
C. Jean Bustard	2009	$164,074	$-0-	$ 60,990	$-0-	$-0-	$-0-	$10,517	$235,581
COO	2008	$185,711	$35,000	$252,600	$-0-	$-0-	$-0-	$12,944	$486,255

(1) Amounts represent a reduction in wages that may or may not be paid in the future and includes wages that were deferred in 2009 and paid in stock in 2010.
(2) Amounts represent the cash portions of the 2008 Incentive Award (paid in 2009).
(3) Amounts represent the stock portions of the 2009 Incentive Award (issued in 2010), the 2008 Incentive Award (issued in 2009), and the Crowfoot Incentive Award (issued in 2008). Each of the NEOs elected to receive 50% of their 2008 Incentive Award in cash.
(4) Amounts represent 401(k) matching payments in cash or stock made or accruing to the Retirement Plan by the Company for the benefit of the named individual.

Outstanding Equity Awards at December 31, 2009

	Option Awards					Stock Awards			
Name	Number of Securities Underlying Unexercised Options (#) Exercisable (1)	Number of Securities Underlying Unexercised Options (#) Unexercisable (1)	Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options	Option Exercise Price per Share	Option Expiration Date	Number of Shares That Have Not Vested	Market Value of Shares That Have Not Vested	Equity Incentive Plan Award: Number of Unearned Shares That Have Not Vested (2)	Equity Incentive Plan Award: Market Value of Unearned Shares That Have Not Vested (2)
Michael D. Durham	49,010	-0-	-0-	$8.60	8/23/14	-0-	-0-	32,500	$198,250
Mark H. McKinnies	34,210	-0-	-0-	$8.60	8/23/14	-0-	-0-	26,000	$158,600
C. Jean Bustard	24,543	-0-	-0-	$8.60	8/23/14	-0-	-0-	26,000	$158,600

(1) Represents options granted on August 23, 2004 pursuant to our 2004 ESO Plan. The securities shown as Unexercisable as of December 31, 2008 were vested on January 8, 2009 by action of our Board of Directors for performance with respect to the year ended December 31, 2008. Please see the description of our EC Plan above for more information on performance-based vesting of these options.

(2) The shares consist of Crowfoot Incentive Program awards granted on March 17, 2008. These shares will vest, if ever, upon the attainment of certain milestones set forth in the Program. The market value of such shares was determined based on a share price of $6.10 at December 31, 2009.

Nonqualified Deferred Compensation

Although our EC Plan allows for deferrals of payment, the Company does not currently have any deferred compensation plans that apply to the NEOs.

Employment Contracts and Termination of Employment and Change-in-Control Arrangements

We have executed employment agreements with every full-time employee, including our executive officers. The agreements with all of our executive officers contain the following provisions:

1. Description of position, duties, authority, compensation, benefits and obligation of the employee to devote full time to the fulfillment of his/her obligations under the agreement.
2. Obligations to disclose and Company ownership of inventions and confidential subject matter, which obligations survive for two years after termination of employment.
3. Assignment of inventions, obligations regarding inventions and confirmation of no Company obligation to commercialize inventions, all of which survive after termination of employment.
4. Acknowledgement that copyright works are works for hire and obligation of employee to maintain written records of all inventions and confidential subject matter.
5. Restrictive obligations relating to confidential subject matter, which survive after termination of employment.
6. Acknowledgement and agreement regarding no conflicting obligations and obligations upon termination of employment.

The agreements with our Chief Executive Officer, Chief Operating Officer and Chief Financial Officer also contain the following provisions:

1. Automatic extensions for one-year periods unless previously terminated with appropriate advance notice.
2. Three months prior written notice of intent to terminate by either the Company other than for cause, death or permanent disability or the employee.

The compensation amounts included in the employment agreements are subject to annual adjustment and the compensation levels for the named executive officers are shown in the tables above. None of our employment contracts or other agreements contain any provisions for the payment of any amounts that result from or will result from the resignation, retirement or any other termination of any executive officer s employment with us or from a change-in-control of the Company or a change in the named executive officer s responsibilities following a change-in-control except as described below.

Under our stock incentive plans, unless otherwise provided in a stock option agreement, options held by a director, executive or employee are exercisable after such person s death or permanent disability without regarding to any vesting requirements of such options.

Section 16(a) Beneficial Ownership Reporting Compliance

Section 16(a) of the Securities Exchange Act of 1934 requires our officers and directors and persons who beneficially own more than ten percent of a registered class of our equity securities to file reports of ownership with the SEC. Officers, directors and greater than ten percent shareholders are required by SEC regulation to furnish us with copies of all Section 16(a) forms they file.

Based solely on our review of the copies of such forms received by us, or written representations from the reporting persons, each Nominee and Executive Officer, with the exception of C. Jean Bustard, filed two late reports each of which contained one transaction not reported on a timely basis. C. Jean Bustard filed one late report containing one transaction not reported on a timely basis.

Risks Arising from Compensation Policies and Practices

We believe that our compensation policies and practices do not motivate excessive or imprudent risk-taking. We note the following key aspects of our compensation in making this determination:

- The Company s EC Plan is based on balanced performance metrics that promote disciplined progress towards longer-term Company goals in addition to the short-term health of the organization;
- We do not offer significant short-term incentives that might drive high-risk investments at the expense of long-term Company value;
- Our Crowfoot Incentive Program is based on achievement of specifically identified and disclosed milestones, all of which promote the long-term achievement of the operation of the activated carbon facility; and
- When considering the Company s executive share ownership and holding requirements, the Company s compensation programs are weighted towards offering long-term incentives.

Because of these factors, we determined that our compensation policies and practices, both for our employees generally and for our executive officers, do not create risks that are reasonably likely to have a material adverse effect on the Company.

DIRECTOR COMPENSATION

Our Nominating and Governance Committee has responsibility for reviewing the compensation plan for our non-management directors annually and making recommendations to the entire Board for approval. The Committee has not delegated authority to any other person to determine director compensation. Our two executive officers who serve on the Board have provided their views as to the amount and form of director compensation, and Mr. McKinnies, our Chief Financial Officer, has made recommendations to the Committee regarding the form of compensation (i.e. cash or stock) and tax and accounting ramifications of awards. In addition, the two executive officers who serve on our Board vote on the recommendations for director compensation made by the Committee to the Board. In 2009, the Committee reviewed industry data from the Mountain States Employers Council (MSEC) and the National Association of Corporate Directors 2008-09 Director Compensation Report and Survey Data and has sought the input of representatives of such Council on its compensation structure and amounts. MSEC has also been engaged by the Compensation Committee and has assisted with the design and application of the EC Plan, advised on the appropriateness of incentive levels for executive positions and provided assistance in setting the weight for metrics in modeling the EC Plan.

- Annual Retainer. In 2009, each non-management director was entitled to receive a $70,000 annual retainer, at least $35,000 of which is payable in stock (not to exceed 10,000 shares in any calendar year) and the remainder of which is payable in cash
- Initial Appointment or Election. Directors receive a one-time award of options to acquire 5,000 shares of our common stock upon initial appointment or election to the Board.

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Chairman Retainers. The Chairman of the Board and Chairman of the Audit Committee each received $10,000 per year, and the Chairman of the Compensation Committee and the Chairman of the Nominating and Governance Committee each received $5,000 per year for their services in such positions. These amounts are all paid in cash.

Committee Service Retainers. Directors receive $2,500, payable in cash, for each committee on which such director serves (unless such director is receiving compensation for acting as Chairman of such Committee, in which case no additional sum is paid).

We have maintained directors and officers insurance coverage for our directors and executive officers since May 2006. The annual cost of such coverage is approximately $110,000.

Director Compensation During the Year Ended December 31, 2009

The following amounts were paid to our non-management directors who served during 2009. Dr. Durham and Mr. McKinnies do not receive any additional compensation for their service on the Board of Directors.

Name	Fees Earned or Paid in Cash ($)	Stock Awards ($)(5)	Option Awards ($)(6)	Non-Equity Incentive Plan Compensation ($)	All Other Compensation	Total
Robert Caruso(1)	$ 55,063	$ 27,247	$ -0-	$ -0-	$ -0-	$ 82,310
John Eaves (2)	$ 31,000	$ 29,420	$ -0-	$ -0-	$ -0-	$ 60,420
Derek Johnson	$ 38,438	$ 27,205	$ -0-	$ -0-	$ -0-	$ 65,643
Ronald Johnson(3)	$ 32,938	$ 26,691	$ -0-	$ -0-	$ -0-	$ 59,629
W. Phillip Marcum	$ 45,126	$ 29,420	$ -0-	$ -0-	$ -0-	$ 74,546
Jeff Smith	$ 34,667	$ 29,586	$ -0-	$ -0-	$ -0-	$ 64,253
Richard Swanson(4)	$ 47,125	$ 26,774	$ -0-	$ -0-	$ -0-	$ 73,899
Totals	$ 284,357	$ 196,343	$ -0-	$ -0-	$ -0-	$ 480,700

(1) Amounts for services from Mr. Caruso are paid to B/3 Management Resources, LLC.

(2) Amounts for services from Mr. Eaves are paid to Arch Coal, Inc.

(3) Amounts for services from Mr. Ronald Johnson are paid to Twin-Kem International, Inc.

(4) Amounts for services from Mr. Swanson are paid to R&K Corp.

(5) The fair value of stock awards, which represents the closing price on the date of issuance of $2.59, and $3.09 times the number of shares issued, for awards on April 2, 2009 and June 1, 2009 respectively to each non-management director of shares of common stock as a portion of his compensation for services performed from June 2009 through May 2010. The aggregate number of stock awards for each non-management director, in the order listed in the table, during the year ended December 31, 2009 was 8,862, 9,563, 8,846, 8,682, 9,563, 9,627 and 8,714.

(6) The aggregate number of fully vested outstanding stock options for each non-management director, in the order listed in the table, as of December 31, 2009 was 5,000, 5,000, 5,000, 3,333, 5,000, 5,000, and 5,000, respectively. No options were awarded to our directors in the 2009 fiscal year.

STOCK INCENTIVE PLANS

2002 ADA-ES, Inc. Stock Option Plan

During 2003, the Company adopted the 2002 ADA-ES, Inc. Stock Option Plan, which was originally referred to as the 2002 Stock Option Plan (the 2003 Plan), and reserved 400,000 shares of Common Stock for issuance under the plan. In general, all options granted under the 2003 Plan expire ten years from the date of grant unless otherwise specified by the Company s Board. The exercise price of options was determined by the Compensation Committee of the Board at the time the option was granted of not less than 100% of the fair market value of a share of our Common Stock on the date the option is granted. During the first quarter of 2006, 19,900 options were granted under this plan. This plan was replaced by the 2007 Equity Incentive Plan described below, and as a result, 148,506 shares of Common Stock that were originally reserved for issuance upon exercise of options grantable under the 2003 Plan were removed from the 2003 Plan. As of December 31, 2009, 70,269 options remained outstanding and exercisable.

2004 ESO Plan

During 2004, we adopted the 2004 ESO Plan, which did not require shareholder approval. The 2004 ESO Plan authorized the grant of up to 200,000 options to purchase shares of our common stock to our executive officers. The 2004 ESO Plan is intended to promote our growth and profitability by awarding options to purchase our common stock in exchange for services performed and to be performed in the future. Options granted under the 2004 ESO Plan are generally intended to be non-qualified stock options (NQSO) for federal income tax purposes. The 2004 ESO Plan is administered by our Compensation Committee. In general, the exercise price of an option will be determined by the Compensation Committee at the time the option is granted and

will not be less than 100% of the fair market value of a share of our common stock on the date the option is granted. Under the 2004 ESO Plan, the grant of options is limited to 60,000 per individual. The options are exercisable over a 10-year period based on a vesting schedule, typically between 5% and 20% per year, which may be accelerated based on performance of the individual recipients as determined by our Compensation Committee. During 2004, all 200,000 options were granted under the 2004 ESO Plan to five executive officers, each of whom is a full-time employee. In January 2005 and 2006 and in February 2007, our Compensation Committee authorized the accelerated vesting of 27,080 options, 38,428 options, and 17,258 options, respectively, under the 2004 ESO Plan based on performance metrics in the EC Plan that were met and other discretionary amounts. No accelerated vesting was authorized for 2007 performance as noted above. During 2007, 7,057 previously vested options were exercised. As of December 31, 2009, 166,663 options remain outstanding and exercisable under this plan.

2004 Stock Compensation Plan #2

During 2004, we adopted the 2004 Stock Compensation Plan #2 (the 2004 Plan) for the issuance of shares and the grant of options to purchase shares of our common stock to our non-management directors. The 2004 Plan was approved by our shareholders at our 2005 Annual Meeting. The 2004 Plan is intended to compensate our non-management directors by awarding shares and options to purchase shares for services they rendered during 2004 and 2005 and will continue to render in subsequent years. The 2004 Plan provided for the award of 603 shares of our common stock per individual non-management director (4,221 shares in total), and the grant of 5,000 options per individual non-management director (35,000 in total), all of which were formally granted and issued in 2005 after approval of the 2004 Plan by our shareholders. The stock awards and vested portion of the stock option grants to non-management directors represent a portion of compensation for services performed from October 2004 through September 2005. The option exercise price of $13.80 per share for the stock options granted on November 4, 2004 was the market price on the date of the grant. The options are exercisable over a period of five years and will vest over a three-year period, one-third each year for continued service on the Board. If such service is terminated, the non-vested portion of the option is forfeited. As of December 31, 2009, 13,333 options remain outstanding and exercisable under this plan.

2005 Directors Compensation Plan

During 2005 we adopted the 2005 Directors Compensation Plan (the 2005 Plan), which authorized the issuance of shares of common stock and the grant of options to purchase shares of our common stock to non-management directors. The 2005 Plan was approved by our shareholders at the 2005 Annual Meeting. The 2005 Plan is intended to advance our interests by providing eligible non-management directors an opportunity to acquire or increase an equity interest in the Company, create an increased incentive to expend maximum effort for our growth and success and encourage such eligible individuals to continue to service the Company. The 2005 Plan provides a portion of the annual compensation to our non-management directors in the form of awards of shares of common stock and vesting of options to purchase common stock for services performed for the Company. Under the 2005 Plan, the award of stock is limited to 1,000 shares per individual per year, and the grant of options is limited to 5,000 per individual in total. The aggregate number of shares of common stock reserved for issuance under the 2005 Plan totals 90,000 shares (50,000 in the form of stock awards and 40,000 in the form of options). The exercise price is the market price on the date of grant, the shares of common stock underlying the option will vest at a rate of no more than 1,667 shares per annual period per individual, and any unvested shares of Stock that are outstanding at the date the individual is no longer a director are forfeited. Shares may be issued and options may be granted under the 2005 Plan only to non-management directors of the Company or its subsidiaries.

The 2005 Plan will terminate ten years after the date of its adoption, if not earlier terminated by the Board. It may be amended, modified or terminated at any time if and when it is advisable in the absolute discretion of the Board, although certain amendments are subject to approval of regulatory bodies and our shareholders. No such amendment may adversely affect any options previously granted under the Plan without the consent of the recipient(s). The 2005 Plan is administered by a committee appointed by the Board, which currently consists of all Board members. As of December 31, 2009, 20,000 options remain outstanding and exercisable under this plan.

2007 Plan

During 2007, the Company adopted the 2007 Equity Incentive Plan (the 2007 Plan), which replaces the 2003 Plan. The 2007 Plan authorizes the issuance to employees, directors and consultants of up to 600,000 shares of Common Stock, either as restricted stock grants or to underlie options to purchase shares of our Common Stock. Under the 2007 Plan, the award of stock is limited to not more than 30,000 shares per individual per year with a maximum of 10,000 shares grantable in any year to non-management Directors. In general, all options granted under the 2007 Plan will expire ten years from the date of grant unless otherwise specified by the Board. The exercise price for options granted under the 2007 Plan will be the market price on the date of grant and the shares of Common Stock underlying the option will vest on the passage of specified times following the date of grant, the occurrence of one of more events, the satisfaction of performance criteria or other conditions specified by the Board. As of December 31, 2009, no options have been granted under the 2007 Plan.

In March 2008, in connection with the Crowfoot Incentive Program, 172,500 shares of our common stock were reserved for award, and as of January 2010 an equal amount of shares of restricted stock have been awarded to four of our executive officers and an independent consultant for that Program. The shares awarded pursuant to the Crowfoot Incentive Program only vest upon attainment of certain milestones, as described above under Executive Compensation.

In April 2008, 100,000 shares of our common stock were reserved under the 2007 Plan for issuance pursuant to our Stock Price Incentive Program.

2009 Profit Sharing Retirement Plan

In June 2009, the Company revised its ADA-ES, Inc. Profit Sharing Retirement Plan, which is a plan qualified under Section 401(k) of the Internal Revenue Code (the 401(k) Plan). The revision allows the Company to issue shares of Common Stock to employees to satisfy its obligation to match employee contributions under the terms of the 401(k) Plan in lieu of matching contributions in cash. The Company reserved 300,000 shares of its Common Stock for this purpose. The value of Common Stock issued as matching contributions under the 401(k) Plan is determined based on the per share market value of our Common Stock on the date of issuance. As of December 31, 2009, we issued 71,100 shares of Common Stock under the 401(k) Plan.

In July 2009 the Board awarded stock pursuant to the 2007 Plan to the Company s non-management directors in partial payment of fees for services provided from June 2009 through May 2010. A total of 61,412 shares were issued and are included in the Director Compensation table shown above.

EQUITY COMPENSATION PLAN INFORMATION

AS OF DECEMBER 31, 2009

Plan category	**Number of securities to be issued upon exercise of outstanding options, warrants and rights** ***(a)***	**Weighted-average exercise price of outstanding options, warrants and rights** ***(b)***	**Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))** **(c)**
Equity compensation plans approved by security holders (1)	317,666	$8.60	267,232
Equity compensation plans not approved by security holders (2)	256,388	$7.35	247,965
Total	574,054	$8.04	515,197

(1) Amounts shown represent options and/or shares covered under our 2003 Plan, our 2004 Plan, our 2005 Plan and our 2007 Plan described above.

(2) Amounts shown represents 10-year options to purchase 9,000 shares granted to a consultant in 2005 at an exercise price of $14.60, 10-year options to purchase a total of 4,625 shares granted to two consultants in 2004 at an exercise price of $13.80, options covered under our 2004 ESO Plan and our 401(k) Plan described above.

CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

Other than our compensation arrangements and employment agreements with our executive officers, described above, we did not have any related-party transactions during the 2009 fiscal year.

Private Placement to Arch Coal

On March 23, 2010, we entered into a subscription agreement (the Subscription Agreement) with Arch Coal for the issuance and sale in a private placement of an aggregate of 143,885 shares of our common stock at a purchase price of $6.95 per share for aggregate proceeds of $1.0 million. The per-share price for the private placement was the closing sales price of our common

stock as listed on the NASDAQ Capital Market on March 22, 2010, the day before we entered into the Subscription Agreement, We intend to use the net proceeds of the private placement to make capital contributions to Clean Coal to fund our 50% share of the repayment by Clean Coal of the NexGen Loan. No placement agent was involved in the transaction.

John Eaves is the President and Chief Operating Officer and a director of Arch Coal and also one of the members of our Board of Directors. Mr. Eaves abstained from voting on the private placement. In addition, as required by our related-party transaction policy, the private placement was approved by our audit committee before being recommended to the Board for approval and was then approved by the disinterested members of the Board.

Proposed License Agreement with Arch Coal

We are also in the process of negotiating an agreement with Arch Coal to exclusively license to Arch Coal technology relating to additives that may be applied to coal to limit HAPs emissions from burning that coal in boilers and enhancing the marketability of such coal, pursuant to which they would pay us a non-refundable initial license fee of $2.0 million in cash, and additional fees based on sales of coal to which such technology has been applied. We anticipate that any license agreement with Arch Coal would be subject to review and approval by our audit committee and the disinterested members of our Board.

PROPOSALS OF SHAREHOLDERS FOR PRESENTATION AT THE NEXT

ANNUAL MEETING OF SHAREHOLDERS

We anticipate that our next Annual Meeting of Shareholders will be held in June 2011. Any Shareholder of record of the Company who desires to submit a proper proposal for inclusion in the proxy material related to the next Annual Meeting of Shareholders must do so in writing and it must be received at our principal executive offices on or before December 31, 2010. If a shareholder intends to submit a proposal at the meeting that is not included in the Company s proxy statement, and the shareholder fails to notify the Company prior to March 25, 2011 of such proposal, then the proxies appointed by the Company s management would be allowed to use their discretionary voting authority when the proposal is raised at the annual meeting, without any discussion of the matter in the proxy statement. The proponent must own 1% or more of the outstanding shares or $2,000 in market value, of our Common Stock and must have continuously owned such shares for one year and intend to continue to hold such shares through the date of the Annual Meeting in order to present a shareholder proposal to the Company.

ANNUAL REPORT ON FORM 10-K

We will provide our Annual Report on Form 10-K concerning our operations during the fiscal year ended December 31, 2009, including certified consolidated financial statements and any financial statement schedules for the year then ended, to our shareholders without charge upon request to Mark H. McKinnies, Secretary, ADA-ES, Inc., 8100 SouthPark Way, Unit B, Littleton, Colorado 80120. Exhibits listed in the Form 10-K are available upon request to shareholders at a nominal charge for printing and mailing.

OTHER MATTERS

The Board knows of no other business to be presented at the Annual Meeting of Shareholders. If other matters properly come before the Meeting, the persons named in the accompanying form of Proxy intend to vote on such other matters in accordance with their best judgment.

PROXY For an Annual Meeting of Shareholders of ADA-ES, INC. PROXY

Proxy Solicited on Behalf of the Board of Directors

This proxy will be voted in respect of the matters listed in accordance with the choice, if any, indicated in the spaces provided. If no choice is indicated, the proxy will be voted for such matter. If any amendments or variations are to be voted on, or any further matter comes before the Meeting, this proxy will be voted according to the best judgment of the person voting the proxy at the Meeting. This form should be read in conjunction with the accompanying Notice of Meeting and Proxy Statement.

NOTES:

1. Please date and sign (exactly as the shares represented by this Proxy are registered) and return promptly. When shares are held by joint tenants, both should sign. When signing as attorney, executor, administrator, trustee or guardian, please give full title as such. If a corporation, please sign in full corporate name by the President or other authorized officer. If a partnership, please sign in partnership name by an authorized person. If no date is stated by the shareholder(s), the Proxy is deemed to bear the date upon which it was mailed by management to the shareholder(s).

2. To be valid, this Proxy form, duly signed and dated, must arrive at the office of the Company s transfer agent, Computershare Investor Services, 350 Indiana Street, Suite 800, Golden, Colorado 80401, not less than forty-eight (48) hours (excluding Saturdays, Sundays and holidays) before the day of the Meeting or any postponement or adjournment thereof.

The undersigned shareholder of ADA-ES, Inc. (the Company) hereby appoints Michael D. Durham and Robert N. Caruso or, failing them, Mark H. McKinnies, as nominee of the undersigned to attend, vote and act for and in the name of the undersigned at the Annual Meeting of the Shareholders of the Company (the Meeting) to be held at the Company s offices, located at 8100 SouthPark Way, Unit B in Littleton, Colorado on Wednesday, June 16, 2010, at 9:00 a.m. (local time), and at any postponement or adjournment thereof, and the undersigned hereby revokes any former proxy given to attend and vote at the Meeting.

THE NOMINEE IS HEREBY INSTRUCTED TO VOTE AS FOLLOWS WITH RESPECT TO THE

FOLLOWING MATTERS PROPOSED BY THE COMPANY:

1. PROPOSAL TO ELECT THE FOLLOWING NOMINEES TO THE BOARD OF DIRECTORS:

Nominees:

Robert N. Caruso

Michael D. Durham

John W. Eaves

Derek C. Johnson

Ronald B. Johnson

W. Phillip Marcum

Mark H. McKinnies

Jeffrey C. Smith

Richard J. Swanson

[ ] FOR All NOMINEES

[ ] WITHHOLD AUTHORITY FOR ALL NOMINEES

[ ] FOR ALL NOMINEES, EXCEPT THE FOLLOWING:

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2. PROPOSAL TO RATIFY THE AUDIT COMMITTEE S SELECTION OF EHRHARDT, KEEFE, STEINER & HOTTMAN PC AS THE COMPANY S INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM FOR THE FISCAL YEAR ENDING DECEMBER 31, 2010:

[ ] FOR

[ ] AGAINST

[ ] ABSTAIN

3. PROPOSAL TO APPROVE THE STOCK ISSUANCE PLAN FOR THE ISSUANCE OF SHARES OF THE COMPANY S COMMON STOCK IN EXCESS OF 20% OF THE AMOUNT OF OUR EXISTING OUTSTANDING SHARES AND NOT MORE THAN 3.5 MILLION SHARES, INCLUDING SHARES OF COMMON STOCK POTENTIALLY UNDERLYING PREFERRED STOCK, OPTIONS AND/OR WARRANTS IN CONNECTION WITH RAISING CAPITAL FOR IMPLEMENTING OUR GROWTH PLANS AND FOR GENERAL WORKING CAPITAL PURPOSES:

[ ] FOR

[ ] AGAINST

[ ] ABSTAIN

4.To consider and vote upon such other matters as may properly come before the Meeting or any postponement or adjournment thereof.

Dated this _____ day of _____, 2010.

Signature of Shareholder(s)

(Please print name of Shareholder[s])
PLEASE MARK, SIGN, DATE AND RETURN THIS PROXY CARD PROMPTLY USING THE ENCLOSED ENVELOPE.