

SOUTHERN AIR TRANSPORT

RETIREMENT PLAN

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SOUTHERN AIR TRANSPORT

RETIREMENT PLAN

**SECTION 1: DEFINITIONS**

The following words and phrases, when used in this Plan, unless the context clearly indicates otherwise, shall have the following meanings:

- 1.01 PLAN: Southern Air Transport Retirement Plan.
- 1.02 COMPANY: Southern Air Transport, Inc., a \_\_\_\_\_ corporation, its successors and assigns.
- 1.03 BOARD: The Board of Directors of the Company.
- 1.04 EMPLOYING COMPANY: The Company and any division of the Company, or any subsidiary or other company which adopts this Plan and which is designated by the Board as an Employing Company.
- 1.05 COMMITTEE: The administrative Committee provided for in Section 9 (Administration).
- 1.06 PRIOR PLAN: Any pension or profit-sharing plan to which an Employing Company contributed, and designated by the Board as a Prior Plan which was in effect for an Employee up to the date this Plan became effective for him as provided in Section 2 (Plan Membership), subject to the provisions of Section 11.05 (Plan Subject to Tax Approval). There was no Prior Plan so designated on January 1, 1969.

- 1.07 EMPLOYEE: Anyone regularly employed by an Employing Company for not less than twenty hours in any one week nor less than five months in any calendar year.
- 1.08 PARTICIPANT: Anyone who has become included in this Plan as provided in Section 2 (Plan Membership), and who continues to have rights or contingent rights to benefits payable under this Plan.
- 1.09 CONTINUOUS EMPLOYMENT: Service as an Employee (including successive service with Employing Companies or their predecessors, but only in the manner and to the extent authorized by the Board) which has not terminated as defined in Section 3.04 (Termination of Continuous Employment).
- 1.10 EFFECTIVE DATE: The date this Plan becomes effective for any Employee as provided in Section 2.01 (Effective Date).
- 1.11 CREDITED SERVICE: Service as provided in Section 3 (Credited Service).
- 1.12 BENEFICIARY: The person or persons last designated by a Participant, by written notice filed with the Committee, to receive a Plan benefit upon his death which may be provided by Section 2.02 (Effect of Prior Plan), Section 5.02 (Additional Benefits Arising from Prior Service), Section 5.04 (Supplemental Benefits), or Section 6.02 (Optional Forms of Retirement Income).
- 1.13 NORMAL RETIREMENT DATE: The first of the month coincident with or next following attainment of age 65 in the case of a Ground Participant and age 60 in the case of a Flight Participant.

- 1.14 ACTUARIAL EQUIVALENT: The benefit of equivalent value, computed on the basis of the mortality tables and interest rate last adopted for purposes of the actuarial valuation used to determine contributions to the Plan, or on such other basis as may be adopted by the Committee.
- 1.15 PENSION FUND: The fund established by contributions of the Employing Companies in order to provide for the payment of the benefits specified in the Plan, including the funds accumulated under any Prior Plan, as provided in Section 8.03 (Pension Fund).
- 1.16 GENDER AND NUMBER: Wherever applicable the masculine pronoun shall include the feminine pronoun, and the singular shall include the plural.
- 1.17 EARNINGS: The basic compensation paid to an Employee by an Employing Company, which shall exclude overtime, bonuses, and commissions.
- 1.18 FINAL-AVERAGE EARNINGS: The average determined by dividing the highest sum of the Earnings in any 60 consecutive months in the last ten consecutive years of an Employee's Continuous Employment as a Ground Participant or a Flight Participant, for purposes of determining benefits for service while a Ground Participant or a Flight Participant, respectively, by the number of complete consecutive calendar years included in such period.

If the number of consecutive months as a Ground Participant or as a Flight Participant is less than 60, such lesser number of months will be included in the computation of Final-Average Earnings.

- 1.19 PRIMARY SOCIAL SECURITY BENEFIT: The amount which would be available at age 65 as a monthly old age benefit for the Participant exclusive of benefits for relatives or dependents, under the Federal Social Security Act or under any similar Federal Act or Acts as now existing or subsequently amended, superseded, or created, whether or not payment of such amount is delayed, suspended, or forfeited because of failure to apply, other work, or for any other reason. Provided that for purposes of this Plan in the event retirement income is to commence prior to age 65, Primary Social Security shall be determined as if he receives no further income after he ceased to receive Earnings.
- 1.20 SPOUSE: The spouse of the Participant at the time his election of an optional form of retirement income becomes effective as provided in Section 6 (Form of Benefits and Options).
- 1.21 JOINT ANNUITANT: The person designated to receive certain contingent income benefits pursuant to Section 6.02(a) (Joint and Survivor Option).
- 1.22 TOTALLY AND PERMANENTLY DISABLED: Disabled as a result of demonstrable injury or disease (including legally established mental incompetency) which

will permanently, continuously and wholly prevent the Employee from engaging in his occupation or performing any gainful occupation for the Employing Company; provided that this term shall not include any injury or disease which

- (a) resulted from or consisted of habitual drunkenness or addiction to narcotics, or
- (b) was contracted, suffered or incurred while the Employee was engaged in or resulted from his having engaged in a criminal enterprise, or
- (c) arose while the Employee was absent on extended leave of absence (not vacation) or layoff or was absent without leave, or
- (d) resulted from being engaged in some other occupation or business for profit.

Disability as herein defined shall be determined by the Employing Company after medical examination of the Participant by one or more physicians appointed by the Employing Company.

1.23 ACTUARY: A Fellow or Associate of the Society of Actuaries, or a firm employing one or more Fellows or Associates of the Society of Actuaries, appointed by the Committee as Actuary for the Plan.

1.24 FLIGHT PARTICIPANTS: Employees whose Earnings relate primarily to their performance of duties as pilots, \_\_\_\_\_, as determined by the Committee.

1.25 GROUND PARTICIPANTS: Employees not classified as Flight Participants.



SECTION 2: PLAN MEMBERSHIP

2.01 EFFECTIVE DATE: The Plan becomes effective for an Employee upon the first of the month coincident with or next following the later of (a) his date of hire in the case of a Flight Participant; and the date on which he has both attained age 25 and completed two years of Continuous Employment in the case of a Ground Participant and (b) January 1, 1969; provided that the Board may specify a later effective date for any group of Employees of a Company becoming an Employing Company other than as of January 1, 1969.

2.02 EFFECT OF PRIOR PLAN: As of the date this Plan becomes effective for an Employee who was covered under a Prior Plan with respect to an individual entitled to benefits under the Prior Plan:

(a) No further contributions shall be made, and no further benefits shall accrue under such Prior Plan for him after the effective date of this Plan, and

(b) All benefits payable to him under the terms of the Prior Plan shall be merged into the benefits provided by this Plan, and shall be paid under this Plan as directed by the Board.

The total of benefits paid under this Plan shall not be less than the Actuarial Equivalent of the benefits which the Employee would have received under the Prior Plan had he terminated employment the day before the date the Prior Plan was so designated with respect to him.

SECTION 3: CREDITED SERVICE

3.01 CREDITED SERVICE: An Employee's Credited Service shall be the number of years (with proportionate allowance for months) of Continuous Employment after the Effective Date of this Plan for him, subject to the further conditions of this Section 3 (Credited Service).

3.02 PERIODS INCLUDED IN CREDITED SERVICE: An Employee's Credited Service, subject to the provisions of Section 3.03 below, shall include:

- (a) For Employees for whom the Effective Date is January 1, 1969, periods of Continuous Employment prior to January 1, 1969.
- (b) Leaves of absence for required service with the Armed Forces of the United States (with such leave expiring concurrently with re-employment or with the expiration of any re-employment rights required by law) subject to such non-discriminatory rules as may be established by the Committee.
- (c) Periods of authorized leave of absence not in excess of six months, due to illness or disability.

3.03 PERIODS EXCLUDED FROM CREDITED SERVICE: An Employee's Credited Service shall exclude:

- (a) Periods of Continuous Employment after attainment of age 65;
- (b) The first two years of Continuous Employment, and Continuous Employment prior to attainment of age 25 in the case of a Ground Participant;
- (c) Periods of Continuous Employment for which the Employee is entitled to benefits under a plan (other than the Southern Air Transport Savings Plan and this Plan) to which the Employing Company contributes, except as provided in Section 5.02 (Additional Benefits Arising From Prior Service);
- (d) Periods of absence due to Total and Permanent Disability, authorized leave, or layoff, as determined by the Committee; and
- (e) Periods of service during which the Participant fails to meet the definition of Section 1.07 (Employee).

Subject to the conditions of Paragraph (a) above and of Section 7.02 (Termination Benefits), Credited

Service accrued prior to an excluded period will be preserved, although there is no further accumulation of Credited Service during the excluded period.

**3.04** TERMINATION OF CONTINUOUS EMPLOYMENT: Continuous Employment shall be deemed to terminate in the event of:

- (a) Resignation or quit by the Employee;
- (b) Discharge;
- (c) Failure to return to work upon expiration of approved medical or military leave of absence or upon recall after layoff, or before expiration of re-employment rights required by law;
- (d) Elapse of one year after layoff without recall;
- (e) Permanent shut-down, unless re-employed by an Employing Company within sixty days thereafter;
- (f) Other permanent severance of the employment relationship.

**3.05** EFFECT OF RE-EMPLOYMENT: In the event of re-employment after termination of Continuous Employment, the Employee shall be treated as a new Employee in all respects, without regard to previous service, subject to the provisions of Section 10.01 (Re-employment of a Participant who has Retired).

3.06 TRANSFERS BETWEEN FLIGHT AND GROUND STATUS: Benefits earned with respect to service as a Flight Participant or as a Ground Participant shall be provided separately according to the respective terms of this Plan. An employee with Credited Service both as a Flight Participant and as a Ground Participant will have two Normal Retirement Dates of age 60 and age 65 for benefits earned in such respective service.

**SECTION 4: ELIGIBILITY FOR RETIREMENT**

**4.01 RETIREMENT DATE:** A Participant's Normal Retirement Date is the first of the month coinciding with or next following his 65th birthday in the case of benefits earned as a Ground Participant and his 60th birthday in the case of benefits earned as a Flight Participant.

A Participant may postpone his retirement beyond his Normal Retirement Date subject to the annual consent of the Company.

With the consent of the Company, a Participant may retire early on the first of any month on or after both attaining age 55 and completing 20 years of Continuous Employment in the case of benefits earned as a Ground Participant and both attaining age 50 and completing 15 years of Continuous Employment in the case of benefits earned as a Flight Participant; and may elect to commence receiving benefits on the first of any month thereafter up to his Normal Retirement Date.

**4.02 APPLICATION FOR COMMENCEMENT OF BENEFITS:** A Participant may apply to have retirement income benefits commence as of the first of any month on or after the Participant's Retirement Date as provided in Section 4.01 (Retirement Date). The application must be in the form prescribed by the Committee, and must be filed with the Committee not more than 120 days nor less than 30 days prior to the date retirement income is to commence. No retirement income will be

payable unless a Participant retired as provided in Section 4.01 (Retirement Date), and until proper application has been received by the Committee.



**SECTION 5: AMOUNT OF RETIREMENT INCOME**

**5.01** NORMAL RETIREMENT BENEFITS: Where retirement income benefits commence on or after the Participant's Normal Retirement Date, the monthly amount of such benefits computed separately for service as a Ground Participant and as a Flight Participant, is equal to (a) less (b) where:

(a) is 1.25% of his Final-Average Earnings multiplied by the number of his years of Credited Service to a maximum of 40 years; and

(b) is 1.25% of his Primary Social Security Benefit multiplied by the number of his years of Credited Service to a maximum of 40 years.

**5.02** ADDITIONAL BENEFITS ARISING FROM PRIOR SERVICE: Additional benefits for service prior to the Effective Date may be approved by the Board on a non-discriminatory basis for any group of Employees, pursuant to Section 2.02 (Effect of Prior Plan).

**5.03** EARLY RETIREMENT BENEFITS: In the event of early retirement, benefits will be computed as in Section 5.01 (Normal Retirement Benefits), based upon Credited Service and Final-Average Earnings to the date of early retirement, and reduced by 0.35% for each complete month by which the date retirement benefits commence precedes the Normal Retirement Date, provided that the offset relating to Primary Social Security

pursuant to Section 5.01(b) shall be reduced for this purpose on an Actuarially Equivalent basis rather than by the 0.35% factor.

**SECTION 6: FORM OF BENEFITS AND OPTIONS**

**6.01**     **NORMAL FORM OF RETIREMENT INCOME:** The normal form of retirement income payable under this Plan shall be an income payable monthly for life.

**6.02**     **OPTIONAL FORMS OF RETIREMENT INCOME:** In lieu of the normal form of retirement income, a Participant may elect to receive optional retirement benefits having an actuarially equivalent value, in any one of the following forms:

- (a)     **Joint and Survivor Option:** A reduced optional retirement income continuing during the lifetime of the retired Participant, and further continuing after his death at 50%, 75%, or 100% (according to the election of the Participant) of the reduced optional retirement income, to his designated Joint Annuitant (which designated Joint Annuitant may not subsequently be changed by the Participant, except as provided in Section 6.03(a) below) during the lifetime of such Joint Annuitant after the death of the Participant; provided that the actuarially equivalent value at retirement of the payments to the Participant shall represent at least 50% of the actuarially equivalent value at retirement of the total benefit; or

(b) Period Certain and Life Option: A reduced optional retirement income payable during the lifetime of the retired Participant and guaranteed to continue to the Participant, to a designated Beneficiary (which Beneficiary may be changed by the Participant at any time), or to the estate of the last to die of the Participant and the Beneficiary, for at least five, ten or fifteen years (according to the election of the Participant) regardless of whether or not the Participant survives such five, ten or fifteen year period; provided that any payments becoming due to the estate of any person may be computed and paid in one sum at the discretion of the Committee; and provided that the period certain may not exceed the complete life expectancy of the Participant at retirement; or

(c) Level Income Option: A Participant shall be permitted to elect a level income option so as to retire on a "level income basis" providing increased monthly payments from his retirement to age 62 with provisions for reduced payments thereafter to the extent that such method of payment may be reasonably calculated to provide, together with Social Security benefits, a level income. Such optional benefit shall be the actuarial equivalent of the benefit payable in the

event such optional form of retirement benefit had not been elected. Such option shall not be subject to revocation or change after benefit payments commence. If this option is elected within two years preceding the Normal Retirement Date or actual retirement, whichever is earlier, evidence of good health of the Participant satisfactory to the Retirement Board must be provided. In the event of retirement within two years following the Effective Date, this option may be exercised at any time up to ninety days prior to retirement or within such ninety day period upon evidence of good health of the Participant satisfactory to the Committee; or

- (d) Open Option: With the approval of the Committee, a lump-sum optional retirement benefit or an optional retirement income benefit payable in some other form; provided that the Participant is able to comply with such requirements and conditions as may be prescribed by the Committee; and provided that payments shall not commence later than if the Participant had elected one of the alternatives in Section 6.02(a), (b) or (c).

#### 6.03 CONDITIONS RELATIVE TO OPTIONAL FORMS

- (a) To become effective, an election of an optional form of retirement income must have been made either within one year

following the Effective Date of the Plan, or at least one year before the Participant's Normal Retirement Date. A Participant may elect an optional form of retirement income, or change his Joint Annuitant at any time prior to his Normal Retirement Date, if he furnishes upon request, evidence of his good health satisfactory to the Committee. The open option shall be subject to such requirements as may be prescribed by the Committee.

- (b) To elect a Joint and Survivor Option or to change the Beneficiary, the Participant shall designate his Joint Annuitant in a form provided for the purpose. He shall also furnish to the Committee within six months thereafter, but not later than the date on which he shall retire, proof satisfactory to the Committee of the age of the Joint Annuitant.
- (c) The election of an optional form of retirement income shall become effective on the Normal Retirement Date.
- (d) A Participant who has not made an irrevocable election may, subject to the consent of the Committee, revoke his election of an optional form of retirement income at any time before it has become effective on the Normal Retirement Date.

(e) If a Participant has elected a Joint and Survivor Option or Period Certain and Life Option and

(i) if his Joint Annuitant under a Joint and Survivor Option election dies before the election becomes effective, the election shall thereupon become void;

(ii) if the Participant dies before the election becomes effective, the election shall thereupon become void and the Joint Annuitant or Beneficiary shall not be entitled to benefits under such option;

(iii) if the Participant dies after his Normal Retirement Date while in service, his Joint Annuitant will receive benefits as if the Participant had retired on the day before he died;

(iv) if the Joint Annuitant or Beneficiary dies after the option becomes effective, but before the death of the retired Participant, the retired Participant shall nevertheless receive the reduced income payable to him in accordance with such election;

- (v) if the Participant is re-employed by the Company after the date on which the election becomes effective, his election shall nevertheless continue to be effective.

6.04 WIDOW'S BENEFITS: If the Participant dies after an option has become effective, the income payable to his beneficiary, if still living, shall be as determined under the option.

If the Participant dies before an option becomes effective, and dies after attaining age 55 and after completing at least 20 years of Continuous Employment in the case of a Ground Participant and after attaining age 50 and after completing at least 15 years of Continuous Employment in the case of a Flight Participant, and if he has filed an irrevocable option at least one year previously naming his Spouse as Beneficiary, a benefit will be paid to his Spouse if still living. The amount of the benefit payable to the Spouse shall be the same as if the Participant had retired on the day prior to the date of his death with the option in effect on such date. Accordingly, the income to the Spouse will be based on the Participant's Credited Service and Final-Average Earnings at the time of death, and will reflect the reduction in benefits if commencement is prior to the Participant's Normal Retirement Date, and will reflect the percentage continuation to the surviving Spouse under the option.



The benefit determined in the preceding paragraph will be payable only if the Participant elects irrevocably this widow's protection at the time he elects his optional benefits.

SECTION 7: DEATH AND TERMINATION BENEFITS

7.01 DEATH BENEFITS: There are no death benefits provided under this Plan except as may be provided under Section 2.02 (Effect of Prior Plan), Section 5.02 (Additional Benefits Arising from Prior Service), Section 5.04 (Supplemental Benefits), or Section 6 (Form of Benefits and Options).

7.02 TERMINATION BENEFITS: A Participant's vesting date shall be that date on which he has attained age 45 and completed 10 years of Continuous Employment in the case of a Ground Participant, and attained age 40 and completed 5 years of Continuous Employment in the case of a Flight Participant. In the event that employment terminates after his vesting date in accordance with Section 3.04 (Termination of Continuous Employment), the terminating Participant shall be entitled to a deferred income equal to (a) multiplied by (b):

(a) A pension deferred to his Normal Retirement Date calculated in accordance with Section 5 (Amount of Retirement Income), based on his Credited Service and Final-Average Earnings at the time of termination.

(b) 50% increasing 5% for each completed year of Continuous Employment after

the vesting date, to a maximum of 100% after completing ten years of Continuous Employment after the vesting date.

In no event shall a terminating Participant's vested benefits be less than those to which he would be entitled in accordance with the last sentence of Section 2.02 (Effect of Prior Plan).

**7.03**      **DISABILITY BENEFITS:** A Participant who becomes Totally and Permanently Disabled shall be entitled to a monthly disability income benefit computed as in Section 5.01 (Normal Retirement Benefits), based upon Flight Participant or Ground Participant Credited Service and respective Final-Average Earnings to the date of disability with payments commencing on the respective Normal Retirement Dates; or if eligible, may receive immediate reduced benefit under the provisions of Section 5.04 (Early Retirement)

**SECTION 8: CONTRIBUTIONS AND PENSION FUND**

**8.01 NO PARTICIPANT CONTRIBUTIONS:** No contributions shall be required from any Participant.

**8.02 CONTRIBUTIONS BY THE EMPLOYING COMPANIES:** From time to time the Committee shall cause an actuarial valuation of the Plan to be made on the basis of the service and mortality tables, rate of interest, and method of funding approved by the Committee. The Committee shall transmit the results of the valuation to the Board together with recommendations as to contributions.

The contributions of the Employing Companies shall be paid at such times and in such amounts as the Board shall determine.

**8.03 PENSION FUND:** The Company shall establish a Pension Fund to which shall be transferred the funds accumulated in connection with any Prior Plan, which have arisen from contributions of the Employing Companies, and into which shall be paid the contributions under this Plan of each Employing Company, and to which shall be paid funds and transfers arising pursuant to Section 2.02 (Effect of Prior Plan), Section 5.02 (Additional Benefits Arising from Prior Service) or Section 5.04 (Supplemental Benefits). The Pension Fund may comprise either a trust fund or trust funds held by one or more trustees, or a group annuity contract or contracts or other forms of insurance contracts, including a deposit administration contract or contracts, or any combination thereof.

The Pension Fund shall be allocated among Employing Companies by the Actuary under the direction of the Committee. Where an Employee transfers from one Employing Company to another he shall be treated to the extent practical and consistent with his accumulated credits as having always been with the new Employing Company for the purpose of allocating assets and liabilities.

At no time prior to the satisfaction of all liabilities under the Plan with respect to Participants and Beneficiaries, shall any part of the corpus or income of the Pension Fund be used for or diverted to any purpose other than for their exclusive benefit. No person shall have any financial interest in or right to the Pension Fund or part thereof, except as expressly provided for in the Plan.

Each Participant or other person who shall claim the right to any payment under the Plan shall be entitled to look only to the Pension Fund for such payment. No liability for the payment of benefits under the Plan shall be imposed upon the Board, the administrative Committee, any Employing Company, or the officers, directors, or stockholders of any Employing Company.

SECTION 9: ADMINISTRATION

9.01 COMMITTEE: Administration of the Plan, the exclusive power to interpret it, and the responsibility for carrying out its provisions are vested in an administrative Committee of at least three members. The Board shall appoint the Committee members and shall have the power of removal and substitution. The Board shall designate the Chairman and the Vice Chairman of the Committee and the Chairman shall designate a Secretary. Any Committee member may resign by notifying the Board and the Committee Secretary in writing. The Committee shall establish rules for administration of the Plan and transaction of its business.

9.02 COMMITTEE MEETINGS: The Committee shall hold meetings, determining the notice, place, and time of each. A majority of its members shall constitute a quorum. Decisions with a quorum present shall be by majority vote. The decisions of the Committee as to interpretation and application of the Plan shall be final. The action of a majority expressed in writing without a meeting shall constitute the action of the Committee and shall have the same effect as if assented to by every Committee member.

9.03 DELEGATION OF DUTIES: The Committee may appoint subcommittees and determine their powers; employ counsel and agents; and authorize one or more

Committee members or any agent to execute or to deliver any written instructions, requisitions, orders, notices, or other instruments or to make any payments on their behalf. They may also obtain clerical, accounting and actuarial assistance to carry out the provisions of the Plan.

- 9.04 PLAN RECORDS: The Committee shall maintain appropriate accounts and records of the Plan and shall keep in convenient form the data necessary for actuarial valuations.
- 9.05 COMMITTEE LIABILITY: Committee members shall use ordinary care and diligence in performing their duties; but no member shall be personally liable by virtue of any contract, agreement, bond or other instrument made or executed by or for him as a Committee member, nor for any loss unless due to his own gross negligence or willful misconduct.
- 9.06 COMMITTEE INDEMNIFICATION: The Company shall indemnify each Committee member against costs, expenses and liabilities, including attorney's fees, incurred in connection with any action, suit or proceeding instituted against him because of any act of omission or commission performed by him as a Committee member while acting in good faith and exercising his judgment for the best interest of the Plan.

Promptly after receipt by an indemnified party under this section of notice of the commencement



of any action, such indemnified party will, if a claim in respect thereof is to be made against the Company, notify the Company of the commencement thereof, and the omission so to notify the Company will relieve it from the liability hereunder, but not from any other liability which it may have to such person. The Company shall be entitled to participate at its own expense in the defense or to assume the defense of any action brought against any party indemnified hereunder.

In the event the Company elects to assume the defense of any such suit, such defense shall be conducted by counsel chosen by it and reasonably satisfactory to the indemnified party, and the indemnified party shall bear the fees and expenses of any additional counsel retained by him.

9.07 COMMITTEE EXPENSES: Any expenses incurred by the Committee in the performance of its duties shall be paid by the Company.

9.08 POWERS OF THE ADMINISTRATIVE COMMITTEE: The administrative Committee shall have the following powers and duties:

- (a) To establish and enforce such rules, regulations and procedures as it shall deem necessary or proper for the efficient administration of the Plan;



- (b) To interpret the Plan, its interpretation thereof in good faith to be final and conclusive;
- (c) To decide all questions concerning the Plan and the eligibility of any Employee to participate in the Plan;
- (d) To compute the amount of benefits which shall be payable to any Participant, retired Participant, or Beneficiary in accordance with the provisions of the Plan, and to determine the person or person to whom such benefits shall be paid;
- (e) To authorize the payment of benefits.

In the exercise of all its functions the administrative Committee shall act in an impartial and non-discriminatory manner.

SECTION 10: SPECIAL PROVISIONS

10.01 RE-EMPLOYMENT OF A PARTICIPANT WHO HAS RETIRED:

The retirement income payable under the Plan to any Participant who has retired shall cease as of the first date of rehire, if such Participant is rehired by an Employing Company and shall resume as of the first day of the month following his subsequent retirement. Such cessation or suspension of retirement income payable shall not affect the payment of benefits after the death of a re-employed Participant under any optional form of benefit which shall at that time be in effect.

10.02 SMALL PAYMENTS: In the event that any benefit

provided under the Plan is payable in an amount of less than \$10 monthly the administrative Committee may direct that a lump-sum settlement that is Actuarially Equivalent in value be paid in lieu of any other benefit under the Plan.

10.03 PLAN NOT A CONTRACT OF EMPLOYMENT: The Plan shall

not be deemed to constitute a contract between any Employee and any Employing Company, or to be a consideration for the employment of any Employee. Nothing in the Plan shall give any Employee the right to be retained in the employ of an Employing Company; all Employees shall remain subject to discharge, discipline or layoff to the same extent as if the Plan had not been put into effect.

10.04 PAYMENTS TO MINORS AND INCOMPETENTS: If the Administrative Committee shall receive satisfactory evidence that a Participant, Joint Annuitant, or Beneficiary who is entitled to receive any benefit under the Plan is, at the time when such benefit becomes available, a minor or is physically unable or mentally incompetent to receive such benefit and to give a valid release therefore, and that another person or an institution is then maintaining or has custody of such Participant, Joint Annuitant, or Beneficiary, and that no guardian, committee or other representative of the estate of such Participant, Joint Annuitant, or Beneficiary, shall have been duly appointed, the administrative Committee may authorize payment of such benefit otherwise payable to such Participant, Joint Annuitant, or Beneficiary to such other person or institution, and the release of such other person or institution, shall be valid and complete discharge for the payment of such benefit.

10.05 MISSTATEMENT IN APPLICATION FOR RETIREMENT INCOME: If a Participant in any application or response to the administrative Committee makes any statement which is erroneous or omits any material facts or fails before receiving his first payment to correct any information that he previously incorrectly furnished to the administrative Committee for its records, the amount of his retirement income shall be adjusted on the basis of the facts, and the amount of any overpayment theretofore made to such Participant shall be deducted from his next succeeding payments as the administrative Committee shall direct.

10.06 MISSING PERSONS: If the administrative Committee is unable, within three years after any benefit becomes due from the Pension Fund to a Participant, Joint Annuitant, or Beneficiary, to authorize payment because the identity or whereabouts of such person cannot be ascertained, the administrative Committee may direct that such benefit and all further benefits with respect to such person shall be forfeited and all liability for the payment thereof shall terminate.

10.07 NON-ALIENATION OF BENEFITS: No benefit which shall be payable under this Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, garnishment, encumbrance, or charge.

10.08 PREJUDICIAL ACTIVITY: No Participant for former Participant shall be barred by this Plan from any business activity after he terminates employment with the Employing Companies. However, except as provided in the last paragraph of Section 2.02 (Effect of Prior Plan), and in Section 5.04 (Supplemental Benefits) any right of a Participant or former Participant or Beneficiary to any Plan benefit shall terminate if the Committee determines that he has engaged in competition harmful to the interests of any of the Employing Companies or has otherwise prejudiced the interests of any of the Employing Companies through dishonesty during employment.

10.09 LIABILITY LIMITED: In administering the Plan neither the Committee, nor any member thereof, nor the partners of the Employer, nor the Employer shall be liable for any acts of omission or commission, except for his or its own individual, willful and intentional malfeasance or misfeasance. The Employer, and each partner of the Employer, and each member of the Committee shall be entitled to rely conclusively on all tables, valuations, certificates, opinions and reports which shall be furnished by any actuary, accountant, trustee, insurance company, counsel or other expert who shall be employer or engaged by the partners or by the Committee.

SECTION 11: GENERAL PROVISIONS

11.01 MODIFICATION OR DISCONTINUANCE OF THE PLAN OR COMPLETE DISCONTINUANCE OF COMPANY CONTRIBUTIONS:

(a) The Board and each Employing Company expect and intend to maintain the Plan in force indefinitely, but necessarily reserve the right to change or discontinue the Plan at any time.

(b) Change in Plan or Suspension of Contributions: At any time and from time to time, the Plan may be changed in whole or in part, or the contributions of any Employing Company may be suspended, provided that:

(i) no change shall be effective unless the Plan as so changed shall be for the exclusive benefit of the Participants, except as provided in Section 11.02 (c), and

(ii) no change shall deprive any person without his consent of his right to the benefit which had accrued to his credit up to the time of such change.

11.02 DISTRIBUTION OF ASSETS OF PENSION FUND

- (a) In the event that contributions of all Employing Companies are permanently discontinued or in the event that it becomes necessary to discontinue the Plan, the assets then remaining in the Pension Fund shall be applied in the following order, all persons in each class being entitled to their respective proportionate shares based upon the value of their benefits at the time of application:

Firstly: Provision to Participants who have vested benefits under this Plan at the time of their entry into this Plan, as a result of a Prior Plan, of the remaining such vested benefits to which they should be entitled or contingently entitled under this Plan;

SECONDLY: Provision to Participants who have retired and their Joint Annuitants or Beneficiaries of any remaining benefits to which they shall be entitled under the Plan;

Thirdly: Provision to Participants who shall at that time be entitled to retire and to their Joint Annuitant; or Beneficiaries, of the benefits to which they shall be entitled or contingently entitled under the Plan;

Fourthly: Provision to all other Participants and their Joint Annuitants and Beneficiaries of the benefits to which they shall be entitled or contingently entitled under this Plan.

- (b) Any reserves which shall be released as a result of the application of the provisions of Section 11.03 (Restrictions - 25 Highest-Paid Employees) shall be added to the portion of the Pension Fund which is distributed as provided above to Participants whose benefits are not restricted, provided that in the event that all of the benefits accrued to such Participants are fully provided for, such released reserves (or any remaining portion thereof) shall be allocated to provide to the extent possible up to 100% of the benefits otherwise cancelled pursuant to Section 11.03 (Restriction - 25 Highest-Paid Employees), allocating such remaining funds in proportion to the value of the benefits so cancelled.
- (c) Any surplus remaining in the Pension Fund, after the satisfaction of all rights or contingent rights accrued under the Plan with respect to such benefits, and after distribution of any released reserves as above provided, shall, subject to the pertinent provisions of federal or state law, be returnable to the Company.



11.03 RESTRICTION - 25 HIGHEST-PAID EMPLOYEES: This Section 11.03 shall apply to each of the 25 highest-paid employees of each Employing Company on any "commencement date" whose anticipated normal retirement allowance under the Plan exceeds \$1,500 per annum. "Commencement date" means the effective date of the Plan adoption by each Employing Company, or the effective date of any Plan amendment which increases benefits. If during the first ten years after a "commencement date" the Plan is terminated for Employees of any Employing Company, the annuity for any one of the above highest-paid Employees of that company shall be no greater than the annuity that can be provided by the largest of the following amounts:

- (a) The contributions (or funds attributable thereto) which would have been applied to provide the annuity if the Plan as in effect on the day before the "commencement date" had continued without change;
- (b) \$20,000; or
- (c) The sum of (i) the contributions (or funds attributable thereto) which would have been applied to provide benefits for the Employee if the Plan had been terminated on the day before the "commencement date", plus (ii)

the smaller of \$10,000 or 20% of the Employee's average annual remuneration during his last five years since the "commencement date".

If the unfunded past actuarial requirement at the end of any year prior to the tenth anniversary after a "commencement date" exceeds the unfunded base then, until such liability shall have been met, the annuity payable to any such Employee shall not exceed the one that would have been payable had the Plan terminated when these costs were not met.

If, during the first 10 years after a "commencement date", any benefit is to be distributed in a lump sum, notwithstanding the conditions in the preceding paragraph have been met up until that time, the Employee shall enter into an agreement with the Committee in accordance with the provisions of Revenue Ruling 61-10 and any rulings or regulations amendatory thereof that, prior to the payment of such lump sum distribution, the Participant will deposit as security in the Pension Fund, property real or person, having a fair market value as of the date of deposit at least equal to 125% of the amount which would be repayable if the Plan had terminated on the date of distribution of such lump sum; in the event that the fair market value of such property lies below 125%, the Employee shall deposit in the Pension Fund additional properties so as to render the security deposited equal to 125%. If the conditions of the preceding paragraph are met for the ten-year period following the most recent "commencement date", and the Plan is not terminated

such property deposited as security in the Pension Fund shall be re-delivered to such Employee.

Any excess reserves arising from the foregoing provisions shall first be used to provide the benefits due under the Plan for other persons who have rights under the Plan by reason of employment by such Employing Company, in accordance with Section 11.02 (b).

If it should later be determined by statute, court decisions, Internal Revenue Service ruling, or otherwise, that the provisions of this section are no longer necessary to qualify the Plan under the Internal Revenue Code, they shall become ineffective without further amendment of the Plan.

**11.04 FORFEITURES AND INVESTMENT INCOME:** Forfeitures and investment income shall be used to reduce Company contributions and shall not be used hereunder to increase the benefit of any person prior to termination of the Plan or complete discontinuance of contributions.

**11.05 PLAN SUBJECT TO TAX APPROVAL:** This Plan, including any future designation of Prior Plan and Prior Plan benefit pursuant to Sections 2.02 (Effect of Prior Plan), 5.02 (Additional Benefits Arising From Prior Service), or 7.02 (Termination Benefits), is expressly subject to the condition that the Internal Revenue Service shall issue an initial determination letter to the effect that the Plan (and by subsequent letter, any Prior Plan designation) meets the requirements

of the Federal Internal Revenue Code and regulations issued thereunder with respect to employee's trusts.

In the event the Internal Revenue Service issues an initial letter following the submission of the Plan (or any Prior Plan designation), to the effect that the Plan (or Prior Plan designation) will not meet the requirements of the Internal Revenue, the Plan (or the affected Prior Plan designation) shall be of no effect, and all contributions in respect of the Plan (or such Prior Plan designation) shall be returned to the Employer.

11.06 HEADINGS: The titles in this Plan are inserted for convenience of reference; they constitute no part of this Plan, and are not to be considered in the construction hereof.

11.07 GOVERNING LAW: The Plan and all provisions thereof shall be governed by the laws of the State of Florida.

IN WITNESS WHEREOF, the undersigned officers  
of \_\_\_\_\_ have executed this Plan this \_\_\_\_\_  
day of \_\_\_\_\_ 19 \_\_\_\_\_.

By \_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary