

# ALPA MICROFORM FLASH CARD

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RETIREMENT AND INSURANCE DEPARTMENT

VAULT FILE

DAL - DISABILITY AND SURVIVORSHIP PLAN

EFFECTIVE: 2/1/72

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## DELTA PILOTS

### DISABILITY AND SURVIVORSHIP PLAN

#### SECTION 1: DEFINITIONS

The following words and phrases when used in this Plan with an initial capital letter, unless the text clearly indicates otherwise, shall have the following meanings:

- 1.01 **ACTUARIAL EQUIVALENT:** The benefit which has the same present value, as determined using assumptions with respect to interest, mortality, morbidity and such other factors as may be pertinent; such assumptions to be adopted from time to time by the Administrative Committee on a non-discriminatory basis.
- 1.02 **BENEFICIARY:** The person or persons last designated by a Participant by written notice filed with the Employing Company to receive a Plan benefit upon his death which may be provided by Section 9 (Prior Plans).
- 1.03 **BENEFIT FUND:** The fund established by contributions of each Employing Company made in order to provide for benefits specified in the Plan as provided in Section 10.03 (Benefit Fund).
- 1.04 **COMMITTEE:** The Administrative Committee provided for in Section 11 (Administration) of this Plan.
- 1.05 **COMPANY:** Delta Air Lines, Inc., a Delaware corporation, and its successors and assigns.
- 1.06 **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 Company) which has not terminated as defined in Section 3.04 (Termination of Continuous Employment).
- 1.07 **CREDITED SERVICE:** Service as provided in Section 3 (Credited Service).
- 1.08 **DISABLED:** A Participant shall be considered disabled when he loses his FAA license to fly as an airline pilot, and has been denied restoration of such license by the FAA and has appealed or is in the process of appealing such denial to the FAA at its highest appeal level because of accidental bodily injury or any sickness or disease, including natural deterioration, which shall result in his being prevented from flying as an airline pilot, provided, however, that a Participant shall not be considered eligible for disability benefits hereunder if his disability is:
  - (1) Directly or indirectly caused or contributed to by war or invasion while engaged in or taking part in military service or operations except:
    - (a) Military duties while actively employed by his airline employer and receiving his salary from the airline.
    - (b) Military duties while on leave of absence from his airline employer for a maximum of sixty (60) days in any twelve months' period.
  - (2) Directly or indirectly caused or contributed to by intentional self injury.
  - (3) Directly caused or contributed to by crop dusting, spraying or seeding.
  - (4) Directly or indirectly caused or contributed to by habitual use of narcotics, or alcoholic beverages.After a Participant has become eligible for and is receiving disability benefits, the Company may require him to submit proof of continued disability periodically.
  - (1) Such proof shall consist of taking an FAA physical examination given by a doctor of the Participant's choice who is authorized by the Federal Aviation Administration to give such examinations.
  - (2) In addition, the Company may require the Participant to process an

appeal for restoration of his FAA license to fly as an airline pilot through the N.T.S.B.

- (3) The Company shall not require a Participant to submit proof of continued disability more than once a year during the period in which he retains and continues to accrue Seniority under the Basic Agreement.

Thereafter, disability will be considered permanent and no further proof will be required.

- 1.09 **EARNINGS:** Amounts earned by an Employee for personal service rendered to an Employing Company, as reported for Treasury Department Form W-2, including overtime, but excluding incentive compensation, amounts constituting reimbursements for expenses and expense allowances, and any amounts paid in conjunction with retirement, disability, death or termination of continuous employment in lieu of earned and accrued vacation that has not been taken.
- 1.10 **EFFECTIVE DATE OF THE PLAN:** February 1, 1972.
- 1.11 **ELIGIBLE FAMILY MEMBERS:** The person or persons defined as Eligible Family Members in Section 4.01 (Eligible Family Members).
- 1.12 **EMPLOYEE:** Any person classified as a pilot by an Employing Company and regularly employed by an Employing Company, providing that such term shall not include any person whose customary employment is not for more than 20 hours in one week or for not more than 5 months in any one calendar year. Anyone who has retired under the Retirement Plan which became effective February 1, 1972, shall be considered an Employee for purposes of this Plan.
- 1.13 **EMPLOYING COMPANY:** The Company and any division of the Company, or any subsidiary or other company which adopts this Plan, and which division, subsidiary or other company is designated by the Company as an Employing Company and is included in Section 8 (Employing Companies). Any company acquired by the Company after February 1, 1972, shall be considered a division of the Company for purposes of this Section.
- 1.14 **EVENT DATE:** The earliest of the date of the Employee's becoming disabled, his death or his retirement under the Retirement Plan; provided that such date occurs prior to or coincides with cessation of his Earnings.
- 1.15 **FINAL-AVERAGE EARNINGS:** The monthly average determined by dividing the highest sum of the Earnings in any 60 consecutive months, in which there are Earnings, or all consecutive months if there are less than 60 consecutive months, in the last 120 months of an Employee's Continuous Employment up to the Event Date by the number of complete consecutive calendar months included in such period.
- 1.16 **GENDER AND NUMBER:** Unless otherwise indicated, the masculine pronoun as used herein shall mean the feminine pronoun, and the singular shall include the plural.
- 1.17 **NORMAL RETIREMENT DATE:** The first of the month coincident with or next following attainment of age 60.
- 1.18 **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.
- 1.19 **PLAN:** Delta Pilots Disability and Survivorship Plan, the terms and provisions of which are herein set forth, as from time to time amended.
- 1.20 **PRIOR PLANS:** Any disability or survivorship plan to which an Employing Company contributed, and designated by the Company as a Prior Plan and included in Section 9 (Prior Plan), which was in effect for an Employee up to the date on which this Plan became effective for him.
- 1.21 **RETIREMENT PLAN:** The Delta Pilots Retirement Plan effective February 1, 1972, and as from time to time amended.
- 1.22 **SENIORITY, SENIORITY LIST:** These terms assessed herein, shall be in accordance with the basic Agreement between Delta Air Lines, Inc. and the Air Line Pilots in the Service of Delta Air Lines, Inc.

- 1.23 **TEMPORARILY DISABLED:** An employee is considered temporarily disabled during a period of time all of which he is prevented from performing the duties of his occupation solely because of injury or disease.
- 1.24 **ENROLLED ACTUARY:** An individual who is registered as an Enrolled Actuary by the Joint Board for the Enrollment of Actuaries or its successors.

## **SECTION 2: PLAN MEMBERSHIP**

- 2.01 **EFFECTIVE DATE:** The Plan becomes effective for an Employee on the later of his Employing Company Date pursuant to Section 8.01. (Employing Companies) and the date on which he first satisfies the definition of Employee in Section 1.12, provided he has not attained age 60 on this date and further provided that the Company may specify a later effective date for any group of Employees of a company becoming an Employing Company other than as of effective date, in accordance with Section 8 (Employing Companies).
- 2.02 **EMPLOYMENT BY MORE THAN ONE EMPLOYING COMPANY:** Anything to the contrary notwithstanding, if an individual is in the employ of, or connected with, two or more Employing Companies, he shall not be eligible for duplicate benefits under this Plan but shall be treated the same as if he were employed by a single Employing Company, and as if all of his Earnings were with one Employing Company.

## **SECTION 3: CREDITED SERVICE**

- 3.01 **CREDITED SERVICE:** An Employee's Credited Service shall be the number of years and completed months of Continuous Employment after the Effective Date of this Plan for him and during which he has retained or accrued Seniority, subject to the further conditions of this Section 3.
- 3.02 **PERIODS INCLUDED IN CREDITED SERVICE:** An Employee's Credited Service, subject to the provisions of Section 3.03 below, shall include periods of Continuous Employment prior to the Effective Date of this Plan for him, as provided in Section 9 (Prior Plans) and during which he retained or accrued Seniority.
- 3.03 **PERIODS EXCLUDED FROM CREDITED SERVICE:** An Employee's Credited Service shall exclude:
- (a) Periods of Continuous Employment after attainment of age 60;
  - (b) Periods of Continuous Employment for which the Employee is entitled to benefits or benefit protection under a disability and survivorship benefit plan (other than this Plan) to which the Employing Company contributes, except as provided in Section 9 (Prior Plans);
  - (c) Periods of service during which the Participant fails to meet the definition of Section 1.12 (Employee).
- Subject to the conditions of Paragraph (a) above and of Section 7 (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 by the Employing Company;
  - (c) Failure to return to work upon expiration of approved medical or military leave of absence or upon recall after furlough, or before expiration of re-employment rights required by law;
  - (d) Elapse of five years during which the Employee is furloughed without recall;

- (e) Other permanent severance of the employment relationship; or
- (f) Removal from the Seniority list following transfer to a class of employment not covered by the definitions of Employee under Section 1.12 (Employee).

**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 12.01 (Re-employment Of A Participant Who Has Become Disabled).

#### **SECTION 4: ELIGIBILITY FOR BENEFITS**

**4.01 ELIGIBLE FAMILY MEMBERS:** The term "Eligible Family Members" shall mean the Employee, his Dependent Spouse, and his Dependent Children, provided that for this purpose:

- (a) "Dependent" shall refer to the Spouse or Children with respect to whom the Employee was providing more than 50% of such person's support, as determined by the Administrative Committee on a non-discriminatory basis, on the Event Date, subject to such information and verification of such information as the Administrative Committee may reasonably request the Employee and his nominated Dependent to submit to the Administrative Committee.
  - (b) "Spouse" shall refer to the legal wife or husband of the Employee on the Event Date, as determined by the Administrative Committee, subject to such supporting evidence as the Administrative Committee may reasonably require the Employee or his Spouse to submit to the Administrative Committee; provided that for this purpose, such Spouse must either have maintained such status for at least twelve calendar months prior to the Event Date, or furnish the Administrative Committee with such evidence as it may reasonably request that the Employee was in good health at some time between the date that such Spouse status was first established and the Event Date, provided that such Spouse shall cease to be so considered from the time the Spouse remarries unless the Event Date was the date of retirement of the Employee under the Retirement Plan.
  - (c) "Children" shall refer to children of the Employee:
    - (i) Who, on the Event Date, were:
      - (aa) his natural children, including such children conceived by him prior to such date but born after the Event Date, but excluding any such children conceived after the Event Date, or
      - (bb) children who were legally adopted by the Employee prior to the Event Date; provided that either such children were adopted at least one year before the Event Date, or alternatively, providing that the Employee was in good health as determined by the Administrative Committee at some time between the date of such adoption and the Event Date.
    - (ii) Provided that status as "Children" under this Plan shall continue only while they are unmarried and while they are:
      - (aa) under age 19 if not regular full-time students, or
      - (bb) under age 23 if regular full-time students, or
      - (cc) mentally or physically incapacitated, even beyond the ages specified in (aa) and (bb) above, so long as the child remains incapacitated.
- In no event shall benefits be payable under (aa), (bb) and (cc) unless the child receives 50% of his support from the pilot, is unmarried and has never been married, and is not engaged in full-time permanent employment.
- (iii) All as determined by the Administrative Committee based on such evidence as it may reasonably request to have furnished to it.

- (d) In no event may any person be counted more than once as an Eligible Family Member under this Plan, subject to such non-discriminatory rules of application of this limitation as the Administrative Committee may adopt.

**4.02 INCOME BENEFIT COMMENCEMENT:** Income benefits under this Plan are payable in an amount determined pursuant to Section 5 (Family Income Benefits) resulting from:

- (a) The Employee's becoming Disabled
- (i) prior to the cessation of Earnings,
  - (ii) during a disciplinary suspension,
  - (iii) during the first 30 days of furlough,
  - (iv) during military service, but only during the first 60 days of such service during any twelve month period, or
  - (v) during the period a pilot is held out of service for an investigation beginning twelve months after the cessation of Earnings payable from the company; or
- (b) Death of the Employee occurring
- (i) prior to the cessation of Earnings,
  - (ii) during a disciplinary suspension,
  - (iii) during the first 30 days of furlough,
  - (iv) during military service, but only during the first 60 days of such service during any twelve month period,
  - (v) during the period a pilot is held out of service for an investigation, or
  - (vi) during his retirement under the Retirement Plan, provided such retirement occurred prior to his cessation of Earnings beginning on the first of the month on or after such death, but not before the cessation of Earnings.
- (c) Death while Disabled subsequent to cessation of Earnings, beginning on the first of the month on or after such death.

Any change in the amount of income benefits due resulting from a change in the number of Eligible Family Members shall be recognized on the income payment date on or after the date such change in status shall occur.

**4.03 APPLICATION FOR COMMENCEMENT OF BENEFITS:** An application for family income benefits must be received in such form as the Administrative Committee may reasonably request, and shall be accompanied by such verification of entitlement to benefits as the Administrative Committee may request.

**4.04 BENEFITS MUST BE USED FOR SUPPORT:** Notwithstanding any other provisions of this Plan, if the Administrative Committee shall determine that the monthly income benefits are no longer being applied primarily for the care, support and maintenance of each Eligible Family Member, the Administrative Committee may temporarily suspend and/or redirect the payment of such benefits to more nearly accomplish the purposes of this Plan.

**SECTION 5: DISABILITY AND SURVIVORSHIP BENEFITS**

**5.01 DISABILITY BENEFITS:** A Participant who becomes Disabled in accordance with the definition in Section 1.08 shall be entitled to a monthly income benefit equal to 50% of his average monthly Earnings during the last 12 consecutive calendar months prior to the Event Date, for which he receives full normal Earnings. This benefit will continue monthly for as long as the Participant remains Disabled.

Upon the death of a Participant who is receiving monthly disability benefits from this Plan or who is eligible to receive disability benefits except that twelve months have not elapsed since his Company paid sick-leave expired, a monthly income shall be payable to the Participant's Eligible Family Members equal to 50% of the rate of monthly benefit currently being paid or to be paid to the Participant immediately prior to his death.

**5.02. BENEFITS FOR DEATH IN SERVICE:** If a Participant dies during any of the periods specified in Section 4.02(b) or (c), a monthly income benefit will be payable to his Eligible Family Members as follows:

- (a) If death occurs prior to age 50, a monthly income benefit of:
  - (i) 35% of his Final-Average Earnings payable while there are 3 or more Eligible Family Members,
  - (ii) 30% of his Final-Average Earnings payable while there are 2 Eligible Family Members,
  - (iii) 25% of his Final-Average Earnings payable while there is one Eligible Family Member.
- (b) If death occurs after age 50, a monthly income benefit of:
  - (i) 35% of his Final-Average Earnings payable while there are 2 or more Eligible Family Members.
  - (ii) 30% of his Final-Average Earnings payable while there is one Eligible Family Member.
- (c) Provided that the monthly income benefit payable after the date on which the Participant would have attained age 65 shall not exceed 30% of his Final-Average Earnings multiplied by the ratio of (i) to (ii) where
  - (i) is the value of a Benefit Unit on the Participant's date of death plus the value of a Benefit Unit on the date on which the Participant would have attained age 65, and
  - (ii) is twice the value of a Benefit Unit on the Participant's date of death.

**5.03. BENEFITS FOR DEATH AFTER RETIREMENT:** If a Participant dies during his retirement under the Retirement Plan as provided in Section 4.02(b) hereof, a monthly income benefit will be payable to his Eligible Family Members equal to (a) plus (b), multiplied by (c), where

- (a) is 30% of Final-Average Earnings,
- (b) is 5% of Final-Average Earnings prior to the date on which the Participant would have attained age 65 and if there are 2 or more Eligible Family Members, otherwise it is zero, and
- (c) is the ratio of the Participant's Credited Service to 25 years, with a maximum ratio of 1.0.

**5.04. FORM OF FAMILY INCOME:** The normal form of Family Income payable under this Plan shall be an income payable monthly for the lifetime of the Eligible Family Members, providing that during the Participant's lifetime, the entire amount due shall be payable to him and the entire amount of payments due after his death shall be paid to the spouse, if surviving, or if only children are surviving, then to such children in equal shares.

One-half of the monthly income benefit of an Eligible Family Member will be payable as a level fixed amount and one-half will be payable on a variable basis as hereinafter described.

On the date on which benefit payments from this Plan commence that half of an Eligible Family Member's monthly income which is to be variable will be converted to Benefit Units by dividing it by the value of a Benefit Unit on the earliest of the date income benefits from this Plan commence or the date of the Participant's Retirement under the Retirement Plan.

ment Plan. The annual rate of income in dollars payable in any month thereafter shall be equal to the total number of Benefit Units multiplied by the value of a Benefit Unit during that month.

The value of a Benefit Unit shall be \$10.00 as of February 1, 1972 and shall continue unchanged until March 31, 1973. On that date, and on each March 31 thereafter, the value of a Benefit Unit will be redetermined by changing the value of the Benefit Unit as of the preceding March 31 by a percentage equal to (a) minus (b), where

- (a) is the weighted average of the total yield on the Benefit Fund for each of the five preceding calendar years, using weights of 5, 4, 3, 2 and 1 for the most recent calendar year and each of the four preceding calendar years respectively. For the calendar years 1968 through 1971, the total yield on the Benefit Fund will be deemed to be the same as the yield of the Standard & Poor's Index (including dividends) for that year;
- (b) is the valuation rate of interest used in the actuarial valuation as of the preceding January 1.

Notwithstanding any other provisions of this Section 5.04, the total amount of monthly income benefit paid in any month shall not be less than the dollar amount of monthly income defined in Sections 5.01, 5.02 or 5.03.

#### SECTION 6: TEMPORARY DISABILITY BENEFITS

**6.01 TEMPORARY DISABILITY BENEFITS:** A Participant who becomes temporarily disabled in accordance with the definition in Section 1.23 shall be entitled to a weekly benefit equal to the greater of (a) or (b), reduced by (c), where

- (a) is equal to 50% of the weekly average of his total Earnings during the three full calendar months immediately preceding the commencement of a period of disability, and
- (b) is \$300, and
- (c) is any disability benefit which is payable under any temporary disability or cash sickness benefits law or under any applicable workmen's compensation law or occupational disease law, whether or not payment of such benefit is forfeited because of failure to apply.

The weekly benefit will be payable for the period of the Participant's Temporary Disability up to a maximum of 25 weeks, provided that this maximum of 25 weeks will be reduced by any period of Temporary Disability excluded for payment under Section 6.02(d).

**6.02 LIMITATIONS:** No Temporary Disability Benefit shall be payable under this section for:

- (a) The first seven days of a period of Temporary Disability;
- (b) Any day on which the Participant is not under the care of a physician or surgeon; no period shall be considered to have started until the Participant has been seen and treated personally by a physician or surgeon;
- (c) Any day on which the Participant is performing work of any kind, anywhere, for compensation or profit;
- (d) Any day for which the Participant receives salary or other compensation from his Employing Company.

**6.03 CONTINUITY OF TEMPORARY DISABILITY:** All Temporary Disability absences of an employee shall be considered as occurring during a single period of Temporary Disability, except that:

- (a) Successive Temporary Disability absences separated by at least two consecutive weeks of active work on full time will not be considered as occurring during the same period of Temporary Disability;



- (b) Successive temporary and unrelated causes and separated by at least one day of active work on full time will not be considered as occurring during the same period of Temporary Disability provided no benefit has become payable under this section after the Participant last performed at least two consecutive weeks of active work on full time for a Temporary Disability absence involving a cause which is the same as or related to any of the causes of the current absences.

#### SECTION 7: TERMINATION BENEFITS

- 7.01 TERMINATION BENEFITS: There are no benefits under this Plan in the event of Termination of Continuous Employment.

#### SECTION 8: EMPLOYING COMPANIES

- 8.01 EMPLOYING COMPANIES: The following groups are hereby designated as Employing Companies as of the Employing Company Date set forth:

Group	Acquisition Date	Employing Company Date
Delta Air Lines, Inc.	Not Applicable	February 1, 1972
Northeast Airlines, Inc.	August 1, 1972	August 1, 1972

#### SECTION 9: PRIOR PLANS

- 9.01 SPECIAL PRIOR PLAN BENEFITS: The following special provisions apply to all Participants in the Plan who become Participants on February 1, 1972.

- (a) For purposes of computing Credited Service under Section 3 (Credited Service), all of a Participant's Continuous Employment prior to February 1, 1972, shall be included in Credited Service.

- (b) *Retired and Disabled Employees*

Any Employee who was disabled or retired on his Normal Retirement Date prior to February 1, 1972 and who was in receipt of a monthly income from the Delta Air Lines Employees' Retirement Income Plan or the Delta Air Lines Employees' Variable Annuity Retirement Income Plan on February 1, 1972 will be entitled to elect that he and his Eligible Family Members receive monthly income benefits from this Plan determined as if the provisions of this Plan had been in effect as of the date of his disablement or retirement. Provided, however, that:

- (i) Any monthly income benefit payable under this Section 9.01(b) will be payable entirely as a level fixed amount and no part of such monthly income will be payable on the variable basis described in Section 5.04.
- (ii) The provisions of Section 9.01(d) and 9.01(e) shall not apply to any monthly income benefit payable under this Section 9.01(b).
- (iii) The Eligible Family Members of an Employee electing coverage under this Section 9.01(b) shall be limited to those persons who would have qualified as Eligible Family Members on his date of disablement or retirement and shall not include any persons who may subsequently satisfy the definition of an Eligible Family Member.

The election to be covered under this Plan must be made prior to December 31, 1972. The Employee will become eligible for the benefits of this Plan on the first day of the month following his election to be covered under this Plan. Any Employee who elects not to be covered for the benefits of this Plan or who fails to make an election prior to December 31, 1972 will not be eligible for any benefits under this Plan.

**(c) Annuity Contract Offsets**

Notwithstanding any other provisions of this Section 9, any benefits payable under the Plan as the result of an Employee's death or disability shall be reduced by any benefits payable under Group Annuity Contract No. GA-0286 or Group Accident and Health Insurance Policy No. GC-60110 with Aetna Life Insurance Company.

**(d) A Participant who becomes entitled to a disability benefit in accordance with Section 5.01 (Disability Benefits) will in no event receive an annual benefit less than the sum of (i) and (ii), multiplied by (iii), where**

**(i) is the annual benefit accrued under the provisions of the Delta Air Lines Employees' Retirement Income Plan based on the Participant's actual earnings and participation in that plan up to February 1, 1972, plus 2% of all the Participant's Earnings between February 1, 1972, and his Event Date;**

**(ii) is the sum of (a) and (b), multiplied by (c), where**

**(a) is the number of Benefit Units accrued under the provisions of the Delta Air Lines Employees' Variable Annuity Retirement Income Plan based on the Participant's actual earnings and participation in that Plan up to February 1, 1972,**

**(b) is the number of Benefit Units which would have accrued under Section 7.2 of the Delta Air Lines Employee's Variable Annuity Retirement Income Plan after February 1, 1972, based on the Participant's Earnings after February 1, 1972, and**

**(c) is the value of a Benefit Unit as of the Participant's Event Date; and**

**(iii) is the product of (a) and (b); where**

**(a) is the factor for a 50% Joint and Contingent Annuitant benefit based on the ages of the Participant and his spouse on the Event Date, provided that the factor used for a Participant who is not married on the Event Date shall be 1.0, and**

**(b) is the early retirement reduction factor based on the age of the Participant at the date his disability benefits commence.**

The factors used for this sub-paragraph shall be the factors in effect under the Delta Air Lines Employees' Retirement Income Plan.

For the purpose of determining this minimum benefit the value of a Benefit Unit on any date after February 1, 1972, shall be calculated as the product of (iv) and (v), where

**(iv) is the value of a Benefit Unit as of January 1, 1972, determined in accordance with the provisions of the Delta Air Lines Employees' Variable Annuity Retirement Income Plan; and**

**(v) is 120% of the ratio of (a) the value of the Standard & Poor's 500 Stock Index (with allowance for dividends) on the Event Date to (b) value of that Index on January 1, 1972, increased with compound interest at 3% per annum to his Event Date.**

The amount of this minimum benefit will not vary from the dollar amount determined in accordance with this Section 9.01 (d) as of the Participant's Event Date except as provided under Section 5.04.

**(e) The benefit payable under Section 5.03 on the death of a Participant who retired under the Retirement Plan on his Normal Retirement Date will in no event be less than 50% of the annual benefit determined in accordance with Section 9.01(d) hereof adjusted as provided in Section 5.04 for the period from the Participant's Normal Retirement Date to the date of his death.**

**9.02 SPECIAL BENEFITS FOR FORMER NORTHEAST AIRLINES PILOTS.**

The following special provisions apply to all Participants who were formerly employed by Northeast Airlines, Inc. and who became Participants in this Plan on August 1, 1972:

- (a) For purposes of computing Credited Service under Section 3 (Credited Service), all of a Participant's Continuous Employment prior to August 1, 1972 shall be included in Credited Service.
- (b) Any Employee, or the survivors of any Employee, who died, became disabled, or retired prior to August 1, 1972 will not be eligible for the Disability and Survivorship benefits described in Section 5 (Disability and Survivorship Benefits).
- (c) A Participant who became entitled to a disability benefit in accordance with Section 5.01 (Disability Benefits) will in no event receive an annual benefit less than the sum of (i), (ii), and (iii) multiplied by (iv), where
  - (i) is the annual benefit accrued under the provisions of the Northeast Airlines Retirement Plan and payable under the provisions of Section VIII thereof.
  - (ii) is an annual benefit calculated in accordance with Section 5.4 of the Northeast Airlines Fixed Benefit Retirement Plan for Pilots based on the Participant's actual earnings up to his Event Date, and
  - (iii) is the sum of (aa) and (bb), multiplied by (cc), where
    - (aa) is the number of Contribution Units accrued under the provisions of the Northeast Airlines Cooperative Supplementary Retirement Plan for Pilots, based on the Participant's actual earnings and participation in that Plan up to August 1, 1972.
    - (bb) is the number of Contribution Units which would have accrued under Section 12 of the Northeast Airlines Cooperative Supplementary Retirement Plan for Pilots after August 1, 1972 based on the Participant's actual Earnings after August 1, 1972, and
    - (cc) is the value of a Contribution Unit as of the Participant's Event Date divided by the present value of an annuity of \$1.00 per annum, payable monthly for the life of the Participant, such present value to be determined in accordance with the actuarial equivalent factor in effect for the Northeast Airlines Cooperative Supplementary Retirement Plan for Pilots as of August 1, 1972.
  - (iv) is the factor for a 50% Joint and Contingent Annuitant benefit based on the ages of the Participant and his spouse on his Event Date, using for this purpose the factor in effect under the Northeast Airlines Fixed Benefit Retirement Plan for Pilots provided that the factor used for a Participant who is not married on his Event Date shall be 1.0.

For the purpose of determining this minimum benefit the value of a Contribution Unit on any date after August 1, 1972 shall be calculated as the product of (v) and (vi) where

- (v) is the Value of a Contribution Unit as of January 1, 1972 determined in accordance with the provisions of the Northeast Airlines Cooperative Supplementary Retirement Plan for Pilots; and
- (vi) is 96% of the ratio of (a) the value of the Standard and Poor's 500 Stock Index (with allowance for dividends) on the determination date to (b) the value of that Index on January 1, 1972, increased with compound interest at 3% per annum to the determination date.

The amount of this minimum benefit will not vary from the dollar amount determined in accordance with this Section 9.02(c) as of the Participant's Event Date except as provided under Section 5.04.

- (d) Notwithstanding any other provisions of this Section any benefits payable under the Plan as the result of a Participant's disability shall be reduced by any benefits payable under Group Accident and Health Insurance Policy No. GC 60940 with Aetna Life Insurance Company.

- (e) The benefit payable under Section 5.03 on the death of a Participant who retired under the Retirement Plan on his Normal Retirement Date will in no event be less than 50% of the annual benefit determined in accordance with Section 9.02(b) hereof adjusted as provided in Section 5.04 for the period from the Participant's Normal Retirement Date to the date of his death.

#### SECTION 10: CONTRIBUTIONS AND BENEFIT FUND

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

10.02 CONTRIBUTIONS BY THE EMPLOYING COMPANIES: The Administrative Committee shall engage an Enrolled Actuary to submit annually an actuarial valuation evidencing the actuarial position and actuarial costs of the Plan.

Each such actuarial statement or actuarial valuation shall give regard to the Plan's short-term and long-term financial needs and shall be forwarded to the person or persons in the Employing Company designated by the Administrative Committee to review such statements and valuations and to recommend appropriate contributions to the Benefit Fund by the Employing Companies.

The contributions of the Employing Companies shall be paid at reasonable periodic intervals, taking into consideration the recommendations contained in the latest actuarial valuation.

10.03 BENEFIT FUND: The Company shall establish a Benefit Fund to which the funds accumulated in connection with any Prior Plan shall be transferred to the extent indicated in Section 9 (Prior Plans), and into which shall be paid the contributions under this Plan of each Employing Company. The Benefit Fund may comprise any combination of trust funds and insurance contracts.

The Benefit Fund shall be allocated among Employing Companies under the direction of the Administrative 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 allocated assets and liabilities.

At no time shall any part of the corpus or income of the Benefit Fund be used for or diverted to any purpose other than for the exclusive benefit of the participants and their beneficiaries and defraying reasonable expenses of administering the Plan. No person shall have any financial interest in or right to the Benefit Fund or part thereof, except as expressly provided for in the Plan.

Notwithstanding anything herein to the contrary, upon the Employing Company's request, a contribution which was made by a mistake of fact, or conditioned upon qualification of the Plan or any amendment thereof, or upon deductibility of the contribution under Section 404 of the Internal Revenue Code of 1954, shall be returned to the Employing Company within one year after the payment of the contribution, the denial of qualification, or the disallowance of the deduction (to the extent disallowed), whichever is applicable.

Benefit payments shall be paid directly to the participant or beneficiary from the Benefit Fund or from insurance policies entered into to implement the Plan or from both.

Such payments shall be made upon the written order of the Administrative Committee or its delegate.

Resources for benefit payments are limited to the Benefit Fund, except as may be required of Employing Companies by the Pension Benefit Guaranty Corporation by law in connection with plan termination.

## **SECTION 11: ADMINISTRATION**

**11.01 ADMINISTRATIVE COMMITTEE:** The operation and administration of the Plan (except the responsibility for investment and control of assets, which is given to the Finance Committee pursuant to Section 11.08 of this 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 which Committee shall be the Administrator of the Plan, provided, however, that this responsibility shall not extend to the management and control of the assets of the Plan. The Board of Directors of the Company shall appoint the Administrative Committee members and shall have the power of removal and substitution, and shall designate the Chairman and Vice Chairman of the Administrative Committee and the Board of Directors shall designate a Secretary and Assistant Secretaries as needed. Any Administrative Committee member may resign by notifying the Company and the Administrative Committee Secretary in writing. The Administrative Committee shall establish rules for administration of the Plan and transaction of its business. The members of The Administrative Committee shall be the named fiduciaries of the Plan for purposes of operation and administration of the Plan.

**11.02 COMMITTEE MEETINGS:** The Administrative 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 of members present. The decisions of the Administrative Committee as to interpretation and application of the Plan shall be final. The unanimous action of a majority of all members expressed in writing without a meeting shall constitute the action of the Administrative Committee and shall have the same effect as if acted upon at a duly called meeting. A certification of acts and directives of the Administrative Committee by the Secretary of the Administrative Committee shall constitute complete proof to third parties dealing with the Administrative Committee of the authenticity of such acts and directives.

**11.03 DELEGATION OF DUTIES:** For purposes of operation and administration of the Plan the Administrative Committee may:

- (a) appoint one or more other committees, or subcommittees whose members need not be members of the Administrative Committee, and determine their powers;
- (b) employ counsel and agents;
- (c) obtain clerical, accounting, and actuarial assistance;
- (d) authorize one or more Administrative Committee members or any agent to execute or to deliver any written instructions, requisitions, orders, notices, or any other instruments or to make payments on its behalf;
- (e) allocate its fiduciary responsibilities among the members of the Administrative Committee;
- (f) delegate its fiduciary responsibilities to persons other than members of the Administrative Committee.

The Administrative Committee or its delegate may direct that the resources of the Benefit Fund be used for the purposes described in subparagraphs (b) and (c) above.

**11.04 PLAN RECORDS:** The Administrative Committee shall maintain appropriate accounts and records relating to the operation and administration of the Plan, the Finance Committee shall maintain appropriate accounts and records relating to the investment policies and control of assets of the Plan, and both the Finance Committee and the Administrative Committee shall keep in convenient form the data necessary for actuarial valuations and shall keep records of all allocations and delegations of fiduciary responsibilities that each makes including terminations and modifications of such allocations and delegations.

**11.05 INDEMNIFICATION:** The Company shall indemnify each Finance Committee member, each Administrative Committee member, and each other person who is an Employee and who is carrying out such responsibilities pursuant to a delegation of fiduciary responsibilities by the Finance Committee or the Administrative Committee, 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 Finance Committee or Administrative Committee member or as such other person who is an Employee and who is carrying out fiduciary responsibilities duly delegated to him by the Finance Committee or the Administrative Committee, while acting in good faith and exercising his judgment for the best interest of the Plan, its participants, and their beneficiaries.

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 an Employing Company, notify the Company of the commencement thereof, and the omission so to notify the Company will relieve the Company from its indemnity to such indemnified person, 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.

The Plan or the Company or both may purchase insurance for their fiduciaries or for themselves to cover liability or losses occurring by reason of the act or omission of a fiduciary, provided that if purchased by the Plan, such insurance must permit recourse by the insurer against the fiduciary in the case of a breach of a fiduciary obligation by such fiduciary.

A fiduciary may purchase insurance to cover liability resulting from a breach of fiduciary obligation by such fiduciary, or the Company may purchase insurance to cover liability of one or more persons who serve in a fiduciary capacity with regard to this Plan (whether named fiduciaries or not).

**11.06 ADMINISTRATIVE COMMITTEE EXPENSES:** Any expenses incurred by the Administrative Committee in the performance of its duties shall be paid by the Company, provided that the Administrative Committee members shall receive no additional compensation for their services on said Committee.

**11.07 POWERS AND DUTIES OF THE ADMINISTRATIVE COMMITTEE:** In addition to powers and duties otherwise stated in this Plan, the Administrative Committee shall have such duties and powers as may be necessary to discharge its responsibilities under the Plan, including, but not limited to, the following:

- (a) To establish and enforce such rules, regulations, and procedures as it shall deem necessary or proper for the efficient operation and administration of the Plan;
- (b) To interpret the Plan, and decide all questions of eligibility of any Employee to participate in the Plan or to receive benefits under it, its interpretation thereof in good faith to be final and conclusive;
- (c) To determine the amount, manner, and time of payment 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 persons to whom such benefits shall be paid;
- (d) To authorize the payment of benefits and reasonable expenses for administering the Plan;
- (e) To prescribe procedures to be followed by Participants or Beneficiaries filing applications for benefits;

- (f) To prepare and distribute, in such manner as the Administrative Committee determines to be appropriate, information explaining the Plan;
- (g) To decide all questions concerning the Plan;
- (h) To furnish the Board of Directors, upon request, and government agencies, as required, such reports with respect to the administration of the Plan as are reasonable and appropriate; and
- (i) To delegate its powers and duties as set forth in Section 11.03 (Delegation of Duties).

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

**11.08 FINANCE COMMITTEE:** Notwithstanding the provisions of Sections 11.01 (Administrative Committee) and 11.07 (Powers and Duties Of The Administrative Committee), the Finance Committee of the Board of Directors of the Company shall be named fiduciaries of this Plan for purposes of formulating and managing the investment policies and controlling the assets of the Plan (to the extent that such control is not part of the responsibility of the Administrative Committee to direct the payment of benefits or reasonable expenses in its administration of the Plan). In the performance of its duties the Finance Committee shall have the authority to employ directly or indirectly persons to render advice with respect to its responsibilities under the Plan, appoint (and discharge) investment managers and trustees, to manage any or all assets of the Plan, allocate fiduciary responsibilities for investment policy and controlling assets among members of the Finance Committee, and designate persons other than named fiduciaries to carry out fiduciary responsibilities (other than trustee responsibilities) under the Plan.

The Finance Committee shall meet at least once annually to consider the impact on investment policies of the Plan's short-term and long-term financial needs in light of the Plan's objectives; for this purpose it shall review the actuarial statement and/or valuation as well as contributions recommended for the Employing Company pursuant to Section 10.02 of this Plan. All actions taken with respect to such investment policy and the reasons therefore shall be recorded in the minutes of the Finance Committee meeting.

**11.09 FINANCE COMMITTEE MEETINGS:** The Finance 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 of members present. The decisions of the Finance Committee as to investment policy and controlling the assets of the Plan shall be final. The unanimous action of a majority of all members expressed in writing without a meeting shall constitute the action of the Finance Committee and shall have the same effect as if acted upon at a duly called meeting. A certification of acts and directives of the Finance Committee by the Secretary of the Finance Committee shall constitute complete proof to third parties dealing with the Finance Committee of the authenticity of such acts and directives.

**11.10 FINANCE COMMITTEE EXPENSES:** Any expenses incurred by the Finance Committee in the performance of its duties under this Plan shall be paid by the Company, or at the direction of the Finance Committee from the assets of the Benefit Fund in accordance with procedures acknowledged by the Finance Committee or its Delegate.

## SECTION 12: SPECIAL PROVISIONS

**12.01 RE-EMPLOYMENT OF A PARTICIPANT WHO HAS BECOME DISABLED:** The family income payable under the Plan to any Participant who has become Disabled shall cease until the pilot regains his FAA license to fly as an airline pilot and returns or refuses to return to active service with the Employing Company as a pilot.

- 12.02 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 the Actuarial Equivalent in value be paid in lieu of any other benefit under the Plan.
- 12.03 PLAN NOT A CONTRACT OF EMPLOYMENT:** The Plan shall not be deemed to constitute a contract between the Company, or any Employing Company and any Employee, nor 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 furlough to the same extent as if the Plan had not been put into effect.
- 12.04 PAYMENTS TO MINORS AND INCOMPETENTS:** If the Administrative Committee shall receive satisfactory evidence that an Eligible Family Member, 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 Eligible Family Member, or Beneficiary, and that no guardian, committee or other representative of the estate of such Eligible Family Member, or Beneficiary, shall have been duly appointed, the Administrative Committee may authorize payment of such benefit otherwise payable to such Eligible Family Member, 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.
- 12.05 MISSTATEMENT IN APPLICATION FOR BENEFITS:** If any application for benefits, or supportive information, or response to the Administrative Committee makes any statement which is erroneous or omits any material facts, the amount of income benefits shall be adjusted on the basis of the facts, and the amount of any underpayment or overpayment theretofore shall be adjusted for in any succeeding benefit payments due, as the Administrative Committee shall direct.
- 12.06 MISSING PERSONS:** If the Administrative Committee is unable, within three years after any benefit becomes due from the Benefit Fund to any person, to authorize payment because the identity or whereabouts of such person cannot be ascertained, the Administrative Committee may direct that such benefit and all other benefits with respect to such person shall be forfeited and all liability for the payment thereof shall terminate.
- 12.07 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.
- 12.08 LIABILITY LIMITED:** The Company, its officers and directors, the Finance Committee, and the Administrative Committee, and each Employing Company, their officers and directors, and Employee fiduciaries of the Plan will normally rely on tables, valuations, certificates, opinions and reports which are furnished by an actuary, accountant, trustee, insurance company, counsel or other expert who shall be employed or engaged by the Company, the Finance Committee, the Administrative Committee or any Employing Company.

### **SECTION 13: GENERAL PROVISIONS**

- 13.01 MODIFICATION OR DISCONTINUANCE OF THE PLAN OR COMPLETE DISCONTINUANCE OF COMPANY CONTRIBUTIONS:**
- (a) The Company and each Employing Company expect and intend to maintain the Plan in force indefinitely, but necessarily reserve the right to amend or discontinue the Plan at any time.
  - (b) At any time and from time to time, an Employing Company may amend the Plan in whole or in part, or may suspend contributions provided that:



- (i) No change shall be effective unless the Plan as so amended shall be for the exclusive benefit of the Participants and their beneficiaries, and
- (ii) No amendment shall deprive any person of his right to any benefit to which he was entitled at the time of such amendment.
- (c) Any action taken by an Employing Company under this Plan may be by resolution of the Board of Directors of the Company, or by any person or persons duly authorized by resolution of said Board to take such action.

#### **13.02 DISTRIBUTION OF ASSETS OF BENEFIT FUND:**

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 Benefit 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 Eligible Family Members and Beneficiaries of any benefit payments to which they shall be currently entitled under this Plan at the time of discontinuance.

**SECONDLY:** Provision to Eligible Family Members who are receiving income benefits under this Plan and Beneficiaries of Disabled employees, of any remaining benefits to which they shall be entitled under the Plan as a result of death prior to discontinuance and becoming Disabled prior to discontinuance, including subsequent death after discontinuance.

**THIRDLY:** Provision to other Eligible Family Members and Beneficiaries of the benefits to which they shall be entitled under this Plan as a result of death or becoming Disabled after discontinuance, for such period of time after discontinuance as the assets remain sufficient to cover the value of all future expected benefit payments to the Eligible Family Members and Beneficiaries.

**13.03 FORFEITURES AND INVESTMENT INCOME:** Forfeitures and investment income shall be used to reduce Company contributions, except as provided under Section 5.04 and shall not be used hereunder to increase the benefit of any person prior to termination of the Plan or complete discontinuance of contributions.

**13.04 PLAN SUBJECT TO TAX APPROVAL:** This Plan, including any future designation of Prior Plan and Prior Plan benefit pursuant to Sections 8 (Employing Companies) and 9 (Prior Plans), 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 Section 501(c) (9) of the Federal Internal Revenue Code and regulations issued thereunder with respect to employees' trusts.

In the event the Internal Revenue Service issues an initial letter following the submission of the Plan to the effect that the Plan will not meet the requirements of the Internal Revenue Service, this Plan shall not be in effect and disability and survivorship benefits previously in effect as of February 1, 1972 shall continue in effect.

**13.05 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.

**13.06 GOVERNING LAW:** The Plan and all provisions thereof shall be governed by the laws of the State of Georgia.