

AIR TEMP

HEATING AND AIR CONDITIONING, INC. EBBA/PUBLIC DISCLOSURE

A LINC® Service Contractor

2011 NOV 15 PM 2:34

1165 FRONT STREET • BINGHAMTON, NY 13905
607-772-8362

November 10, 2011

Via Fed Ex. Next Day
Top Hat Plan Exemption
Employee Benefits Security Administration
Room N-1513
U.S. Department of Labor
200 Constitution Avenue NW
Washington, DC 20210

Dear Secretary Solis:

This letter serves to provide compliance with the "top hat" plan filing requirement as set forth in 29 CFR 2520.104-23 (b) (the "Statute"). In compliance with the Statute, I am the administrator of a deferred compensation plan and I set forth the following:

1. Name/Address of Employer: Air Temp. Heating & Air Conditioning, Inc.
1165 Upper Front Street
Binghamton, New York 13906-1117
2. Employer Identification Number: 16-1215020
3. The Employer maintains a plan primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees.
4. There exists only one (1) such plan and there is only one (1) employee in said plan.

In addition, attached hereto is a copy of the Deferred Compensation Agreement which gave rise to the filing obligation.

Should you need anything further, please do not hesitate to contact me directly. Thank you for your cooperation.

Best Regards,

William A. Phillips
Vice President

DEFERRED COMPENSATION AGREEMENT

AGREEMENT, made as of July 15, 2011, between Air Temp, Inc. (the "Corporation") and Jason Wallace ("Wallace").

The parties hereby agree as follows:

1. Employment. The Corporation has employed Wallace as general manager of its Central New York division (the "Division") pursuant to that certain Employment Agreement dated July 15, 2011 (the "Employment Agreement").
2. Basic Compensation. As basic compensation for his services, Wallace shall be paid the salary provided in the Employment Agreement.
3. Additional Compensation. In addition to the basic compensation provided in the Employment Agreement, Wallace shall be entitled to receive as incentive compensation twenty percent (20%) of the net annual operating income before taxes of the Division payable after year end (the "Performance Based Incentive Compensation"). Exhibit "A" attached hereto and made a part hereof sets forth the definition and calculation method of net annual operating income before taxes for purposes of this Agreement, together with examples of the calculation thereof. The amount of any Performance Based Incentive Compensation shall be adjusted pro-rata in the event that Employee is not employed by Corporation for Corporation's entire fiscal year. Calculation of any amounts earned pursuant to this Agreement shall be made by Corporation's regularly employed accountants and their calculations shall be final and binding on the parties.
4. Deferral of Performance Based Incentive Compensation. Wallace may elect, in accordance with Section 6 of this Agreement, to defer annually the receipt of a portion of the Performance Based Incentive Compensation otherwise earned by him in any calendar year, which portion shall be designated by him by no later than July 1st of such calendar year, or such greater amount as the Board of Directors of the Corporation may from time to time approve in writing. Any portion of the Performance Based Incentive Compensation deferred pursuant to this Section shall be recorded by the Corporation in a deferred compensation account (the "Account") maintained in Wallace's name, which Account shall be credited on each date for payment of Performance Based Incentive Compensation. Any portion of the Performance Based Incentive Compensation not deferred pursuant to this Section shall be paid by the Corporation to Wallace within 2½ months after the end of the Corporation's fiscal year.

The Corporation shall furnish Wallace with an annual statement of his Account. All amounts credited to the Account shall be credited with interest at a rate equal to the highest prime rate published in the Wall Street Journal in effect on the first day of each calendar month until the Account has been fully distributed to Wallace or to his beneficiary or beneficiaries so designated in writing delivered to the Corporation.

5. Distribution.

A. Distribution of Wallace's Account balance will be made upon the date of his separation from employment with the corporation for any reason other than death; Upon the applicable distribution date, Wallace will be entitled to receive all amounts credited to his Account as of the date of his separation from employment. Such distribution shall be made in a lump sum or in installments over a designated period of years, as elected by Wallace pursuant to Section 6 hereof.

B. Upon termination of Wallace's employment with the Corporation by reason of his death or disability, his designated beneficiary or beneficiaries will be entitled to receive all amounts credited to his Account as of the date of his death or disability. Such amounts shall be payable in a lump sum or in installments over a designated period of years, as elected by Wallace pursuant to Section 6 hereof.

C. Upon the death of Wallace prior to complete distribution to him of the entire balance of his Account after the termination of his employment with the Corporation, the balance of his Account on the date of his death shall be payable to his designated beneficiary or beneficiaries pursuant to subparagraph D of this Section.

D. The Corporation shall direct distribution of the amounts credited to Wallace's Account, including interest thereon, to Wallace or his designated beneficiary or beneficiaries, as the case may be, in the method elected by Wallace as set forth in Section 6 hereof. Distribution shall be made or commence on the first day of the month next following the date upon which Wallace's employment with the Corporation terminates, or the date of Wallace's death, as the case may be. Subsequent installments, if any, shall be made on the annual, quarterly or monthly anniversary dates of the date of the first installment payment as determined by the Corporation. Each such installment, if any, shall include interest credited to the balance of the Account.

6. Election to Defer Performance Based Incentive Compensation. The notice by which Wallace elects to defer Additional Compensation shall be in writing signed by Wallace and delivered to the Corporation prior to July 1st of the calendar year in which the services related to such Performance Based Incentive Compensation are performed. Such election shall specify whether distribution shall be made in a lump sum or installments. If installments are elected, they shall be made over a period of years (not to exceed 10) selected by Wallace in his initial deferral election. Any deferral election (and any subsequent election) will continue until suspended or modified by written notice from Wallace delivered to the Corporation, which new election shall apply only to Performance Based Incentive Compensation payable to Wallace that is related to services performed after the end of the calendar year in which such new election is delivered to the Corporation. Any deferral election shall be irrevocable with respect to any Additional Compensation covered by the election, including Performance Based Incentive Compensation payable in the calendar year in which the election suspending or modifying the prior election is delivered to the Corporation.

Notwithstanding the preceding provisions of this Section:

A. In the first year of employment, a deferral election must be made with respect to services to be performed subsequent to the election and within thirty (30) days after the date of commencement of employment.

B. In the case of any performance-based compensation (as defined in Internal Revenue Code Section 409A and the regulations issued thereunder), based on services performed over a period of at least twelve (12) months, a deferral election may be made no later than six (6) months before the end of such performance period.

7. Wallace's Rights Unsecured. The right of Wallace or his designated beneficiary or beneficiaries to receive a distribution hereunder shall be an unsecured claim against the general assets of the Corporation, and neither Wallace nor his designated beneficiary or beneficiaries shall have any rights in or against any amount credited to his Account or any other specific assets of the Corporation. All amounts credited to his Account shall constitute general assets of the Corporation and may be disposed of by the Corporation at such time and for such purposes as it may deem appropriate. The Account may not be transferred, encumbered, pledged, hypothecated or assigned by Wallace or any beneficiary or beneficiaries.

8. Amendments. The Corporation may amend this Agreement at any time without the consent of Wallace or his beneficiary or beneficiaries, provided, however, that no amendment shall divest Wallace or his beneficiary or beneficiaries of the credits to his Account then existing, or of any rights to which he or they would have been entitled if the Agreement had been terminated immediately prior to the effective date of such amendment.

9. Termination. The Corporation may terminate the Agreement at any time. Upon its termination, distribution of the credits to Wallace's Account shall be made in the manner and at the time hereinbefore provided. No additional credits shall be made to the Account following termination of the Agreement, other than interest thereon credited pursuant to the terms hereof.

10. Expenses. Costs of administration of this Agreement will be paid by the Corporation.

11. Notices. Any notice or election required or permitted to be given hereunder shall be in writing and shall be deemed to be received on the date it is personally delivered to the Secretary of the Corporation or three (3) business days after it is sent by registered or certified mail addressed to the Corporation at: 1165 Front Street, Binghamton, New York 13905, or to Wallace at: 7815 Main Street, Fabius, New York 13063, or such other addresses as may be subsequently designated.

12. Binding Effect. This Agreement shall be binding upon and inure to the benefit of any successor of the Corporation which shall include any person, firm, corporation or other business entity which at any time, whether by merger, purchase or otherwise, acquires all or substantially all of the Corporation's assets or business.

13. Entire Agreement. With the exception of the Employment Agreement, this Agreement supersedes all agreements previously made between the parties relating to its subject matter. There are no other such understandings or agreements.

14. Non-Waiver. No delay or failure by either party in exercising any right under this Agreement, and no partial or single exercise of such right, shall constitute a waiver of that or any other right.

15. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its substantive provisions.

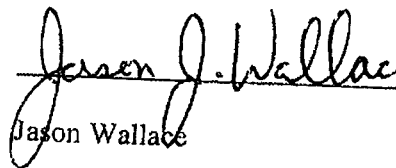
16. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of New York and applicable Federal law.

IN WITNESS WHEREOF, the Corporation has caused this Agreement to be executed in its corporate name by its duly authorized officer, and Wallace has executed the Agreement as of July 15, 2011.

AIR TEMP, INC.

By:

 7/15/11


Jason Wallace

FedEx® US Airbill

Express

FedEx Tracking Number

8747 5314 5689

1 From This portion can be removed for Recipient's records.

Date 11/14/11 FedEx Tracking Number 874753145689

Sender's Name WILLIAM E PHILLIPS Phone 607 772-8362

Company AIR TEMP HEATING & AIR COND

Address 1162 FRONT ST

City BINGHAMTON State NY ZIP 13905-1117

2 Your Internal Billing Reference

3 To Recipient's Name TOPHOT PLAN EXEMPTION EMPLOYEE SECURITY ADMINISTRATION Phone 800 444-3272

Company US DEPT OF LABOR

Address 200 SUSANNTOWN AVE NW ROOM 1513

Address WASHINGTON State DC ZIP 20210

0430521586



8747 5314 5689

Recipient's Copy

4a Express Package Service **Packages up to 150 lbs.**
 FedEx Priority Overnight (Next business afternoon*)
 FedEx Standard Overnight (Next business morning*)
 FedEx First Overnight (Next business morning*)
 FedEx 2Day (Second business day*)
 FedEx 3Day Freight (Third business day*)

4b Express Freight Service **Packages over 150 lbs.**
 FedEx 1Day Freight (Next business day*)
 FedEx 2Day Freight (Second business day*)
 FedEx 3Day Freight (Third business day*)

5 Packaging
 FedEx Envelope*
 FedEx Pak*
 FedEx Box
 FedEx Tube
 Other

6 Special Handling and Delivery Signature Options
 No Signature Required
 Direct Signature
 Indirect Signature
 Signature Required (Someone at recipient's address may sign for delivery, fee applies)

7 Payment Bill to:
 Sender
 Recipient
 Third Party
 Credit Card
 Cash/Check

Total Packages 1 Total Weight 1 lbs.
Credit Card Auth. 605

Rev. Date 2/10 • Part #18279 • ©1994-2010 FedEx • PRINTED IN U.S.A. SRS