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An Accredited United Way Agency

GROUP HOMES OF FORSYTH, INC.

1530-A Martin Street, Suite 105, Winston-Salem, NC 27103 Phone (919) 723-9617
FAX: (919) 723-9667

September 3, 1992

Ronald D. Allen
Chief, Div. of Reporting Compliance
U. S. Dept. of Labor
Pension and Welfare Benefits Administration
Washington, D.C. 20210

Re: Alternative Method of Compliance for Pension Plans for
Selected Employees (DRC-TH# 92-0281)

Employer Identification Number: 56-1097900
Date of Statement: February 3, 1992.

Dear Mr. Allen:

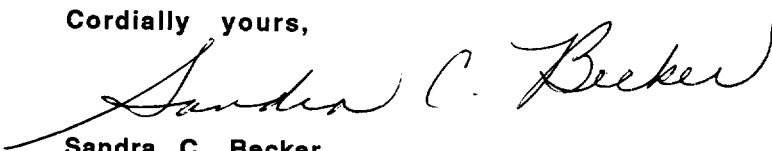
Enclosed please find a copy of our Plan Document with Mutual of America.

In addition, I am enclosing:

- (A) a copy of our Board of Directors' Minutes validating this plan to be effective as of July 1, 1991;
- (B) a copy of a letter from me to Mr. Stephan J. Stansbury, Regional President of Mutual of America (MOA), regarding an administrative error on their part regarding the installation of the plan ending date, and;
- (C) a copy of a letter from Tyrone Golatt, of MOA, verifying/rectifying the plan ending date to July 1992, with instructions to not file the 5500 form for the year ending January 1991.

I hope this clears up this matter. If I can be of further assistance, please do not hesitate to write or call.

Cordially yours,



Sandra C. Becker,
Executive Director

cc: Steve Stansbury, MOA
Robert Margerum, Board President
file

REPO
92 SEP 15 P 6:21

SEP 03 1992



August 31, 1992

Group Homes of Forsyth, Inc.
1530-A Martin Street, Suite 105
Winston-Salem, N.C. 27103

Re: Alternative Method of Compliance for Pension Plans for
Selected Employees (DRC-TH# 92-0281)

Employer Identification Number: 56-1097900
Date of Statement: February 3, 1992

Dear Sir or Madame:

This letter acknowledges receipt of your statement submitted on behalf of the subject pension plan(s) pursuant to the Department of Labor's (Department) Regulation 29 CFR Section 2520.104-23, "Alternative Method of Compliance for Pension Plans for Selected Employees" (commonly referred to as "top hat plans").

We are unable to determine if your statement was submitted timely --within 120 days after the plan(s) became subject to Part 1 of Title I of ERISA. Please submit the plan document or summary plan description showing the date that the referenced plan(s) became subject to Part 1 of Title I of ERISA within 30 days of the date of this letter. If you failed to file the statement timely you may not avail yourself of the relief afforded by the alternative method of compliance and, therefore, must comply with all applicable reporting and disclosure requirements under Part 1 of Title I of ERISA. You may, however, take advantage of the "grace period" program described below.

On April 20, 1992, the Department published a notice in the Federal Register (57 FR 14436) announcing an expanded program for assessing civil penalties under ERISA section 502(c)(2). In the same notice, the Department also announced that for a limited "grace period" period (March 23, 1992 until September 30, 1992) plan administrators who voluntarily file overdue annual reports in accordance with the conditions set forth in the notice will be assessed reduced penalties (copy of notice attached). On July 24, 1992, the Department published a notice in the Federal Register (57 FR 33019) clarifying its position with respect to unfunded/fully insured top hat pension plans (copy of notice attached).

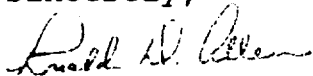
If you failed to file a Top Hat Statement within the 120 period you may wish to take advantage of the grace period program. In

order to apply for the reduced grace period penalty amounts, you must resubmit a statement that meets the alternative method of compliance along with a check for the appropriate penalty amount (\$1,000) to the Department before the end of the grace period. Please include the above DRC-TH# on your statement ensure proper identification of your case. Your check must be made Payable to the U.S. Department of Labor, and mailed along with your statement to the following address:

Pension and Welfare Benefits Administration
P.O. Box 75212
Washington, D.C. 20013-5212

For further information concerning the assessment of civil penalties under Section 502(c)(2) of ERISA, refer to Department regulations 29 CFR Sections 2560.502c-2 and 2570.60 and subsequent sections. If you have any questions, you may contact Ms. Karen Lynn Bell at (202) 523-4006. This is not a toll free number.

Sincerely,



Ronald D. Allen
Chief, Division of Reporting Compliance

Attachments

MUTUAL OF AMERICA

AUG 19 1992

THREE JAMES CENTER, 1051 EAST CARY STREET, SUITE 1410, RICHMOND, VA 23219 • (804) 644-0046

Group Consulting Services

August 14, 1992

Sandra C. Becker
Executive Director
Group Homes of Forsyth, Inc.
1530-A Martin Street
Suite 105
Winston Salem, North Carolina 27105

Re: Plan Year Correction

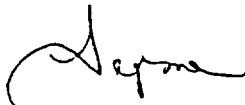
Dear Sandra:

Thank you for your letter regarding the plan year of the Thrift Plan of Group Homes of Forsyth, Incorporated. Your letter was addressed to Stephan J. Stansbery, Regional Vice President, who has asked me to rectify this matter.

Currently, Mutual of America is amending the plan such that the plan year is correctly reflected on all documents as July-June. Mutual of America's Government Reporting Department is currently preparing the data for the annual 5500 filing for distribution by January 1993 for the plan year ending July 1992. Therefore, do not file the 5500 form for the year ending January 1991.

Sandra, if you have any questions or need further assistance please be sure to contact me or Steve. We will be glad to help you.

Sincerely,



Tyrone Golatt
Consultant

An Accredited United Way Agency

GROUP HOMES OF FORSYTH, INC.

1530-A Martin Street, Suite 105, Winston-Salem, NC 27103 Phone (919) 723-9617

August 10, 1992

Mr. Stephan J. Stansbury, Regional Vice President
Mutual of America
Three James Center
1051 East Cary Street, Suite 1410
Richmond, Virginia 23219

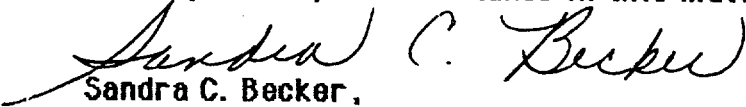
Dear Steve:

This is to advise you of an administrative error on your part regarding installation of the plan ending date on our retirement program.

It has been discovered that the plan ending date was suppose to be June 30th., not December 31, as stated on your records. The management intended for it to end June 30th to coincide with our agency's fiscal year.

Please make the necessary adjustment to your records, and verify that change with a written response to us at your earliest convenience.

Thank you for your assistance in this matter.


Sandra C. Becker,
EXECUTIVE DIRECTOR

MUTUAL OF AMERICA

THRIFT PLAN
FOR EMPLOYEES OF
GROUP HOMES OF FORSYTH, INC.
WINSTON-SALEM, NC
015-381-C

COVER SHEET TO BE ATTACHED TO OFFICIAL TRANSCRIPT OF MINUTES

An Accredited United Way Agency

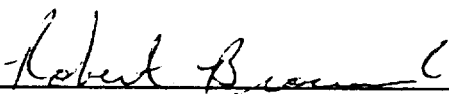
GROUP HOMES OF FORSYTH, INC.

VALIDATION SHEET INDICATING BOARD APPROVAL OF THE MINUTES OF THE EXECUTIVE COMMITTEE MEETING

THE EXECUTIVE COMMITTEE OF THE BOARD OF DIRECTORS OF GROUP HOMES OF FORSYTH, INC. MET ON THURSDAY, AUGUST 22, 1991. THE ACTIONS TAKEN BY THE EXECUTIVE COMMITTEE ARE ACCURATELY REFLECTED IN THE MINUTES ATTACHED HERETO.

THESE MINUTES AND THE BOARD MEMBER'S SIGNATURE ON THIS VALIDATION SHEET INDICATE THE BOARD OF DIRECTOR'S APPROVAL FOR THE IMPLEMENTATION OF THE THRIFT RETIRMENT PLAN AS PRESENTED BY STEPHEN J. STANSBURY OF MUTUAL OF AMERICA.

THIS PLAN IS TO BE IMPLEMENTED RETROACTIVE TO JULY 1, 1991.



Signature of the President of the Board of Directors

Date Signed: Aug 26, 1991

Group Homes of Forsyth, Inc.

Board of Directors - Executive Committee Meeting on August 22, 1991

Present: Erwin Cook, Doug Woodring, Bill Gibson, Robert Brown, Viola Thetford, Marty Cox and Pam Naylor

Re: Mutual of America's Thrift Retirement Plan

Steve Stansbery from Mutual of America presented the Thrift Retirement Plan for Group Homes of Forsyth, Inc.

The employer will make contributions on the employees behalf at a rate of 3% of annual salary. The employer will, in addition, match employees' voluntary contributions to the plan at a rate of 100% not to exceed 1% of annual salary.

Employee participants may contribute from 0% to 12% of salary, on a tax deferred basis. All contributions made by the employee are voluntary.

The effective date for the retirement plan will be decided by the employer. The effective date may be retroactive, not to surpass January of the current calendar year.

Vesting Schedule pertaining to employer contributions, plan participants will be vested as follows:

The employee is completely vested upon completion of 3 years of service with the organization. Participants are always fully vested in their own contributions.

Employees who have completed 3 years service with the organization prior to placement of this plan will be considered vested from the first day. All other employees' time of service prior to placement of this plan will be considered for the 3 years needed for vesting.

Investment Options for participants in the Thrift Plan may invest their contributions (employee and employer) in one of nine funds. At the sole discretion of the employer, contributions made by the employer for each participant may be restricted to only the Interest Accumulation Account Fund until the vesting schedule is met for each participant. Mr. Woodring has a copy of the Thrift Plan Prospectus for the investment fund accounts. Upon vesting for each participant, the sole discretion for investment will be left up to the employee.

Group Homes of Forsyth, Inc.
Executive Committee Meeting on August 22, 1991 Continued

Some questions were asked such as:

What is the current Annual Interest Rate for the Investment Fund Account? Mr. Stansbery distributed several copies on the Interest Rate History for the Fund Accounts.

Would an employee be able to continue his/her share for this plan after departure with our agency? The employee may leave the funds in the Thrift Retirement Plan, but at that point would not be able to continue contributing to the account, however the balance in his/her account would continue to accumulate interest.

There was discussion of the Employer and Employee Monthly Service Charge. Upon determination from the employer, the employer may/may not cover the expense of the employees' monthly service charge (not to exceed \$2.00 per participant). There was no decision made at this time.

Motion Presented:

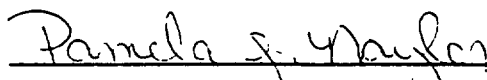
Effective Date for the Thrift Retirement Plan be retroactive to July 1, 1991. The employers share will be Restricted to the Interest Accumulation Fund Account until the vesting schedule is met.

All Executive Committee Members present approved the Motion.

Meeting began at 4:30 p.m. and adjourned at 6:00 p.m.

Attachments: Thrift Plan Study and Interest Rate History

Minutes submitted by:



Pamela J. Naylor, Bookkeeper/Office Manager

MUTUAL OF AMERICA LIFE INSURANCE COMPANY
THRIFT PLAN

The provisions of this Thrift plan document have been designed to meet the requirements of the Internal Revenue Code, and the requirements of the Internal Revenue Service dealing with Section 403(b) annuity plans.

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Section 1. SPECIFICATIONS

The undersigned Employer hereby establishes a Thrift Plan, to be known as the Thrift Plan for Employees of Group Homes of Forsyth, Inc., and the Employer hereby adopts Mutual's Thrift Plan, (hereinafter referred to as the "Plan"), to be effective as of the date specified in 1.1-B below, for the exclusive benefit of its Employees who qualify under the terms and conditions thereof. The Employer hereby selects the following plan specifications for its Plan.

1.1 Employer, Administrator, Effective Date.

- | | |
|------------------------------------|---|
| A. Name and Address of Employer: | Group Homes of Forsyth, Inc. Winston-Salem, NC |
| B. Effective Date: | July 1, 1991 |
| C. Plan Year: | The consecutive twelve-month period beginning January 1 and ending December 31. |
| E. Plan Administrator: | Employer |
| F. Employer Identification Number: | 56-1097900 |
| G. Contract Number: | 015-381-C |
| H. Plan Number: | 002 |

1.2 Eligibility.

- A. Eligible Class of Employees:
All Employees of the Employer.
- B. Age & Service Requirements:
1. There shall be no minimum age requirements.
 2. The minimum service requirement shall be one year.

1.3 Contributions Per Participant.

- A. Basic Employee Contributions:
- Each Participant may elect to contribute a percentage of annual Compensation as follows:
- (1) The Basic Minimum Employee Contribution shall be 1%.
 - (2) The Basic Maximum Employee Contribution shall be 1%.

- (3) Additional Basic Employee Contributions may be made by a Participant who has contributed the Basic Maximum indicated in 2 above. Such additional contributions shall be limited to a maximum amount equal to the excess of the amount determined in accordance with Section 5.5 of this plan over his Maximum Basic Employee Contributions made pursuant to (1) and (2) above and will not be eligible to receive Matching Employer Contributions.

B. Employer Contributions:

Employer Matching Contributions will be made on behalf of each Participant who has (a) attained age 21 and (b) completed 1 year of Eligibility Service.

- (1) Such Employer Matching Contribution will be an amount equal to 100% of the Basic Employee Contributions made by each Participant during the Plan Year pursuant to A.(1) and (2) above.
- (2) In addition to the percentage stated in (1) above, the Employer will make an additional contribution to the Plan equal to 3% of all Participants' Compensation.

C. For purposes of calculating the Employee And Employer Contributions, Monthly Compensation means Compensation as defined in Section 2.6.

1.4 Vesting Schedule for Employer Contribution.

100% vesting upon completion of 3 Years of Vesting Service.

1.5 Loans.

Loans as provided in Section 8.4 of the Plan shall be permitted.

1.6 Investment Options.

A Participant shall have all contributions made by the Employer on his behalf allocated to the General Account until the Participant is 100% vested in such contributions and thereafter, all investment funds will be available under this plan.

1.7 Withdrawal Restrictions.

Notwithstanding the provisions in Section 8.1 and Section 8.2 of this Plan, a Participant has the right to withdraw the vested amounts in his Accounts as follows:

- (1) Employee Contributions may be withdrawn at any time for pre-1989 contributions and upon attainment of age 59 1/2 for post 1988 contributions as well as upon termination of employment and at Vested Retirement date.

(2) Employer Matching Contributions may be withdrawn at any time.

1.8 Forfeitures

Section 7.3 is deleted in its entirety and the following is substituted in lieu thereof:

7.3 Forfeitures

Forfeitures (and amounts attributable thereto) shall be applied only to reduce the Contributions of the Employer who adopted this Plan. No amounts attributable to forfeitures by Participants shall be applied to increase any benefits otherwise payable under the Plan.

1.9 Section 3.2 is deleted in its entirety.

The Employer Hereby Represents That:

- (a) The Plan specifications selected in these Specifications, together with the provisions of the Plan referred to herein, as both may be amended from time to time in accordance with Section 13 of the Plan, shall constitute the entire Plan.
- (b) The Plan is intended to qualify under Section 403(b) of the Code.
- (c) Contributions under the Plan will be placed with Mutual under a group annuity contract issued in conjunction with this Plan.
- (d) Mutual shall be entitled to rely upon written statements furnished by the Employer, Plan Administrator, or Named Fiduciary(ies) in the performance of their duties under this Plan, and payments by Mutual in accordance with the provisions of the above mentioned group annuity contract shall fully discharge Mutual's liability for such payments.

IN WITNESS WHEREOF, the Employer has caused these Specifications to be executed by an authorized individual as of this ^x 11 day of ^x 11 19⁹¹.

EMPLOYER: GROUP HOMES OF FORSYTH, INC.

By: Andrea C. Becker
(Signature of Authorized Officer)

Executive Director
(Title)

Section 2. DEFINITIONS

The following words and phrases as used herein have the meanings defined, unless a different meaning is plainly required by the context. Words of the masculine gender as used herein shall include the feminine, and words in the singular form as used herein shall be construed as though they were also used in the plural form in all cases where they would so apply and vice versa.

- 2.1 **"Accounts"** means the Accounts maintained for each Participant, representing the Participant's interest in the investment funds under this Plan.
- 2.2 **"Accumulation Unit"** means an accounting measure used to indicate the value of a Participant's Accounts in the investment funds in Mutual's Separate Account(s).
- 2.3 **"Annuity Commencement Date"** means the date, on or after a Participant's date of termination of employment with the Employer, on which a Participant's benefit payments begin under the Plan. Unless the Participant elects an Early Retirement Date or a Deferred Retirement Date, the Annuity Commencement Date shall be no later than 60 days after the end of the Plan Year in which (i) the Participant attains his Normal Retirement Age, or (ii) the Participant terminates employment with the Employer, whichever is later.
- 2.4 **"Basic Employee Contribution"** means the contributions made by the Employer on behalf of a Participant pursuant to a salary reduction agreement between the Participant and the Employer which is eligible to receive matching Employer Contributions.
- 2.5 **"Code"** means the Internal Revenue Code of 1986. A reference to any Section of the Code shall be deemed to refer not only to such Section but also to any amendment thereto and any successor statutory provision.
- 2.6 **"Compensation"** means the total compensation paid to an Employee during each calendar month that is subject to tax under Section 3101(a) of the Code without the dollar limitation of Section 3121(a) of the Code, but not including deferred compensation other than contributions through a salary reduction agreement to a cash or deferred plan under Section 401(k) of the Code or a tax deferred annuity under Section 403(b) of the Code.
- 2.7 **"Contract"** means the group annuity contract issued by Mutual to the Employer to fund this Plan.
- 2.8 **"Credited Interest"** means interest at such rate or rates as shall be declared from time to time by Mutual.
- 2.9 **"Deferred Retirement Date"** means the first day of any month after a Participant's Normal Retirement Date as of which the Participant elects, by written notification to the Plan Administrator, to retire. In any event, however, a Participant's benefit payments must begin at a

Deferred Retirement Date that is no later than the maximum age prescribed by Code Section 401(a)(9)(C).

- 2.10 "Early Retirement Age" means the date on which a Participant attains his fifty-fifth birthday.
- 2.11 "Early Retirement Date" means the first day of any month on or after a Participant's Early Retirement Age and before his Normal Retirement Age on which the Participant elects, by written notification to Mutual, to retire.
- 2.12 "Eligible Spouse" means the person to whom a Participant is legally married at his Annuity Commencement Date or any earlier date on which a distribution of all or a portion of the Participant's Accounts is made under this Plan.
- 2.13 "Employee" means any person employed by the Employer.
- 2.14 "ERISA" means the Employee Retirement Income Security Act of 1974 or any statute of similar import.
- 2.15 "ERISA Compliance Date" means the date as of which the Plan had to comply with the minimum standards of Title 1 of ERISA.
- 2.16 "Mutual" means Mutual of America Life Insurance Company.
- 2.17 "Normal Retirement Age" means the date on which the Participant attains his sixty-fifth birthday, provided, however, that if the Employer enforces a mandatory retirement age that is earlier than the Participant's sixty-fifth birthday, such mandatory retirement age shall be deemed to be the Normal Retirement Age for purposes of this Plan.
- 2.18 "Normal Retirement Date" means the first day of the month coinciding with or next following a Participant's Normal Retirement Age.
- 2.19 "Participant" means an Employee who becomes enrolled in this Plan pursuant to Section 4.
- 2.20 "Plan" means the Thrift Plan of the Employer as set forth herein and as it may be amended from time to time.
- 2.21 "Prior Employer" means any prior Employer of an Employee, other than the current Employer, which contributed to a pension plan funded under a contract with Mutual under which the Employee was a participant.
- 2.22 "Prior Employer's Plan" means any pension plan of a Prior Employer funded under a contract with Mutual under which an Employee may become entitled to a benefit.
- 2.23 "Qualified Early Retirement Age" means the latest of (a) the Participant's Early Retirement Age, (b) the first day of the 120th month before the Participant reaches Normal Retirement Age, and (c) the date on which the Participant begins participation.

- 2.24 "Qualified Plan" means a plan that has been designed to meet the requirements of Section 403(b) of the Code.
- 2.25 "Vested Retirement Age" means the Participant's Normal Retirement Age unless Section 1.4-C indicates that the Participant's right to the amounts in his Accounts attributable to Employer contributions shall be 100% nonforfeitable upon attainment of an earlier age.

Section 3. SERVICE

3.1 Hour of Service

"Hour of Service" means:

- (a) Each hour for which an Employee is paid, or entitled to payment, for the performance of duties for the Employer. These hours shall be credited to the Employee for the computation period in which the duties are performed; and
- (b) Each hour for which an Employee is paid, or entitled to payment, by the Employer on account of a period of time during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, provided, however, that no more than 501 Hours of Service shall be credited under this Clause (b) for any single continuous period (whether or not such period occurs in a single computation period). Hours under this paragraph shall be calculated and credited pursuant to section 2530.200b-2(b) and credited pursuant to section 2530.200b-2(c) of the Department of Labor Regulations which are incorporated herein by this reference; and
- (c) Each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hours of Service shall not be credited both under Clause (a) or Clause (b), as the case may be, and under this Clause (c). These hours shall be credited to the Employee for the computation period or periods to which the award or agreement pertains rather than the computation period in which the award, agreement or payment is made; and
- (d) Each hour for which an Employee would have been scheduled to work for the Employer during the period of time that he is absent from work because of service with the Armed Forces of the United States, but only if the Employee returns to work within the period during which he retains reemployment rights pursuant to federal law.

Hours of Service shall be determined on the basis of actual hours for which an Employee is paid or entitled to payment.

Where the Employer maintains the plan of a predecessor employer, service for such predecessor employer shall be treated as service for the Employer.

3.2 Eligibility Service

An Employee shall be credited with a Year of Eligibility Service for the first Eligibility Computation Period described in the following paragraph during which the Employee completes 1,000 Hours of Service and

for each Eligibility Computation Period thereafter during which the Employee completes at least one Hour of Service.

The initial Eligibility Computation Period shall be the twelve months' period beginning on the day the Employee first performs an Hour of Service for the Employer. Each subsequent Eligibility Computation Period shall be:

- (a) if Section 1.2-B indicates one year or less as the minimum number of Years of Eligibility Service required for eligibility, the twelve months' period measured from the first day of the Plan Year that begins before the end of the initial Eligibility Computation Period; and
- (b) if Section 1.2-B indicates more than one year as the minimum number of years of Eligibility Service required for eligibility, the twelve months' period measured from the anniversary of the day the Employee first performed an Hour of Service for the Employer.

3.3 Vesting Service

An Employee's entire Period of Service as hereinafter defined shall be credited to the Employee as Years of Vesting Service. In computing total Years of Vesting Service, credit shall be granted for years and completed months of service, any fraction of a month being considered as one-twelfth of a year.

A "Period of Service" shall mean the period of time beginning on the day an Employee first performs an Hour of Service for the Employer and ending on his Employment Severance Date.

A Period of Service under this Plan shall also include:

- (a) any period during which the Employee is absent from work with the Employer after his Employment Severance Date if he returns to work with the Employer within the twelve months' period following the earlier of his Employment Severance Date and his most recent date of absence from employment for any reason, and
- (b) in the case of an Employee who terminates his employment with the Employer and who is later reemployed, the period beginning on the date on which he completes an Hour of Service for the Employer after his date of reemployment (exclusive of any period referred to in the preceding Clause (a)) and ending on a subsequent Employment Severance Date.

A Period of Service under this Plan shall not include any period between the first and second anniversaries of the date on which an Employee is first absent from work with the Employer due to maternity or paternity reasons if such Employee's leave of absence for such reasons extends beyond such first anniversary.

3.4 Employer

The term Employer shall be defined for vesting purposes only as any employer that is a member of a controlled group of corporations or affiliated service group of the Employer as defined in Section 1.1.

3.5 Employment Severance Date

Except as provided in the following paragraph, an Employee's "Employment Severance Date" shall mean the earlier of (a) the date on which the Employee quits, is discharged, retires, or dies, and (b) the date that marks the first anniversary of the date on which the Employee is first absent from work with the Employer due to disability, vacation, leave, layoff or similar reason.

Anything in the preceding paragraph to the contrary notwithstanding, an Employee's "Employment Severance Date" shall mean:

- (a) in the case of an Employee who is absent from work with the Employer for service with the Armed Forces of the United States, the Employee's date of termination of employment with the Employer unless such Employee returns to the employment of the Employer within the period during which he retains reemployment rights pursuant to federal law; and
- (b) solely as it applies to the Employment Severance Date for determining when a break in service has occurred, in the case of an Employee who is absent from work with the Employer for maternity or paternity reasons, the date that marks the second anniversary of the date on which the Employee is first absent from work with the Employer due to maternity or paternity reasons if such leave of absence extends beyond the first anniversary of such first date of absence.

For purposes of this Section 3, an absence from work for maternity or paternity reasons means an absence by reason of (a) the pregnancy of the Employee, (b) the birth of a child of the Employee, (c) the placement of a child with the Employee in connection with the adoption of such child by such Employee, or (d) the care of such child for a period beginning immediately following such birth or placement.

Section 4. ELIGIBILITY FOR PLAN PARTICIPATION

4.1 When Employees Become Participants

Each Employee in the Eligible Class of Employees as selected in Section 1.2 will become a Participant in the Plan on the first day of the month coincident with or next following the completion of the Age and Service requirements specified in Sections 1.2. Such Age and Service requirements must not exceed the limitations of Code Section 410(a)-1.

A Former Participant will become a Participant immediately upon his return to the employ of the Employer.

An Employee who terminates employment before he becomes a Participant will be considered a new Employee for participation purposes upon his reemployment if he incurred a Completed Period of Severance; otherwise, the periods of employment will be aggregated.

In the event a Participant becomes ineligible to participate because he is no longer a member of the Eligible Class of Employees, such Employee will participate immediately upon his return to an Eligible Class of Employees.

In the event an Employee who is not a member of the Eligible Class of Employees becomes a member of the Eligible Class, such Employee will participate immediately if such Employee has satisfied the minimum age and service requirements and would have previously become a Participant had he been in the Eligible Class.

4.2 Termination of Participation

A Participant shall become a Terminated Participant when his service in the Eligible Class of Employees is terminated for reasons other than by retirement or death and he has received a complete distribution of his vested interest.

A Participant shall become a Former Participant when his service in the Eligible Class of Employees is terminated for reasons other than by retirement or death and he has elected not to receive a distribution of his vested interest at such time, or is not then entitled to receive such a distribution.

A Participant shall become a Retired Participant when his service in the Eligible Class of Employees is terminated by retirement and he begins to receive benefit payments.

A Former Participant shall become a Retired Participant at the time he receives his benefit in accordance with the provisions of the Plan.

4.3 Participation Procedures

As soon as practicable or at the beginning of each month, the Plan Administrator will determine the Employees who are eligible to become Participants and transmit to Mutual the name of such Employees and such

information concerning them as may be requested. Any Employee eligible to become a Participant will be provided with such forms for his execution as may be needed for plan administration purposes.

Each Employee must execute a written application to participate on a form provided by the Plan Administrator in which application the Participant will consent to be bound by the terms and conditions of this Plan, and any and all amendments thereto as may be adopted from time to time. At the same time the Employee will designate his Beneficiary or Beneficiaries under this Plan. Such designation may be changed from time to time by the filing of a new designation with the Plan Administrator.

Each Employee who elects not to participate in this Plan, must execute a written waiver of participation on a form provided by the Plan Administrator. However, such Employee may, at a later date, elect to participate by completing the necessary application forms as provided by the Plan Administrator.

Section 5. CONTRIBUTIONS

5.1 Participant's Contributions

Each Participant shall authorize the Employer to make Basic Employee Contributions as required and specified in 1.3-A of the Specifications, as the Participant may elect.

A Participant's right to make Basic Employee Contributions is subject to the provisions of Section 5.4 of this Plan and to any limitations specified in the Specifications or imposed by federal or state statute or any regulations or rulings issued under such statutes.

A Participant's Basic Employee Contributions shall be allocated to the Basic Employee Contribution Account maintained for the Participant under this Plan.

5.2 Employer Contributions

Subject to the provisions of Sections 1.3-B and 5.5, the Employer shall contribute an Employer Contribution and shall remit such contribution to Mutual.

The Employer Contributions made for a Participant shall be allocated to the Employer Contribution Account maintained for the Participant under this Plan.

A Participant whose employment with the Employer terminates before the end of a Plan Year shall share only in the Employer Contributions for such Plan Year that were made or were attributable to service before the Participant's date of termination of employment.

5.3 Return Of Employer Contributions Because Of Mistake Of Fact

Any contribution made by the Employer because of a mistake of fact shall be returned to the Employer within one year after the date of such contribution.

5.4 Election, Suspension and Resumption of Contributions

Each Participant on whose behalf Basic Employee Contributions are made must make an election specifying the percentage chosen as soon as practicable after the Effective Date, or, such election must be made at least 30 days prior to the beginning of the month for which the Participant will make contributions.

Each Participant may change the percentage he elected to contribute by written notice to the Employer at least 30 days prior to the month for which such change is to be effective. In no event, however, may the percentage be changed more often than once every year.

Each Participant may suspend Basic Employee Contributions by written notice to the Employer at least 30 days prior to the date such suspension is to be effective.

A Participant who suspends contributions pursuant to the preceding paragraph may elect to resume Basic Employee Contributions. Such election may be effective as of the first day of any month coinciding with or next following the first day of the calendar year following such suspension and must be by written notice to the Employer at least 30 days before the applicable month. Such resumption would require the Participant to complete a new salary reduction agreement specifying the percentage chosen for such resumed contributions.

5.5 Limitation On Contributions

In no event shall contributions be allocated to a Participant's Accounts resulting in an Annual Addition to such Accounts for any Limitation Year in excess of a Maximum Permissible Amount equal to the lesser of:

- (a) \$30,000, or, beginning January 1, 1988, such greater amount as may be prescribed by the Secretary of the Treasury or his delegate, multiplied, if a short Limitation Year is created because of an amendment that changes the Limitation Year to a different consecutive twelve months' period, by a fraction that has, as its numerator, the number of months in the short Limitation Year and, as its denominator, twelve.
- (b) 25% of the Participant's Compensation for such Limitation Year.
- (c) The limitation imposed by Code Section 403(b)(2).

Before the Participant's actual Compensation for any Limitation Year is determined, the Maximum Permissible Amount may be determined on the basis of the Participant's estimated annual Compensation for such Limitation Year. Such estimated annual Compensation shall be determined on a reasonable basis and shall be uniformly determined for all Participants similarly situated.

As soon as is administratively feasible after the end of the Limitation Year, the Maximum Permissible Amount for such Limitation Year shall be determined on the basis of the Participant's actual Compensation for such Limitation Year.

However, the amount that may be deferred by a Participant through a salary reduction agreement shall generally be limited to \$9,500.

5.6 Definitions

The following terms as used in this Section 5 shall have the meanings defined.

- (a) The term "Limitation Year" means a calendar year. All non-qualified plans maintained by the Employer must use the same Limitation Year. If the Limitation Year is changed by amendment or Board resolution to a different consecutive twelve months' period, the new Limitation Year must begin on a date within the Limitation Year in which the amendment is made.

- (b) The term "Annual Additions" means the sum of:
- (i) all Employer contributions that are allocated on behalf of a Participant for a Limitation Year, and
 - (ii) the lesser of (1) one-half of the nondeductible participant's contributions and (2) the nondeductible participant's contributions in excess of 6% of the Participant's Compensation for the Limitation Year.
- (c) The term "Compensation" means the Participant's earned income, wages, salaries, and fees for professional services and other amounts received for personal services actually rendered in the course of employment with the Employer and actually paid or includable in gross income during the Limitation Year, including, but not limited to, commissions paid salesmen, compensation for services on the basis of a percentage of profits, commissions on insurance premiums, tips and bonuses. Compensation shall not include:
- (i) Employer contributions to a plan of deferred compensation which are not includable in the Participant's gross income for the taxable year in which contributed, or Employer contributions under a simplified employee pension plan to the extent such contributions are deductible by the Participant, or any distributions from a plan of deferred compensation;
 - (ii) other amounts which received special tax benefits, or contributions made by the Employer (whether or not under a salary reduction agreement) towards the purchase of an annuity described in Section 403(b) of the Code (whether or not such amounts are actually excludable from the Participant's gross income);
- (d) The term "Employer" means (i) the Employer that adopts this Plan, and/or affiliated service groups, as defined in Section 414(m) of the Code, of which the Employer is a part.

Section 6. PARTICIPANT'S ACCOUNTS

6.1 Individual Accounts

Mutual shall maintain for each Participant two Accounts, a Basic Employee Contribution Account and an Employer Contribution Account. Each such Account may be invested in each investment fund described in Section 6.2 to which the Participant's Basic Employee Contributions and the Employer Contributions with respect to the Participant are allocated. A Participant's Account in each investment fund shall reflect (a) the total amount of contributions that are allocated to such investment funds and the earnings thereon, (b) any payments or withdrawals on the Participant's behalf from such investment funds, (c) any forfeitures incurred by the Participant in such investment funds, and (d) any expenses of such investment fund attributable to the Participant's interest therein.

The following terms, as used in this Section 6 shall have the following meanings defined.

"Basic Employee Contribution Account" means the individual account(s) maintained for each Participant or Former Participant reflecting all Basic Employee Contributions made on his behalf.

"Employer Contribution Account" means the individual account(s) maintained for each Participant or Former Participant reflecting all Employer Contributions made on his behalf.

6.2 Investment Funds

Subject to the restrictions, if any, specified in Section 1.6, an Employee as of the date on which he becomes a Participant in this Plan is to designate in a manner satisfactory to Mutual (with the right to change such designation from time to time) the percentage (any multiple of 1% up to 100%) of his Basic Employee Contribution and the Employer Contributions with respect to him to be allocated to any one or more of the investment funds described in the following Paragraphs (1), (2), (3), (4) and (5).

- (1) Mutual's General Account in which funds are guaranteed as to principal and will be accumulated at a fixed rate or rates of interest determined by Mutual.
- (2) The stock fund of Mutual's Separate Account No. 2 a fund owning shares of the Stock Fund of Mutual of America Investment Company in which funds are invested primarily in common stocks and other equity securities to achieve long-term growth of capital and increasing income.
- (3) The money market fund of Mutual's Separate Account No. 2 a fund owning shares of the Money Market Fund of Mutual of America Investment Company in which funds are invested primarily in high-quality short-term money market instruments in order to

obtain the highest current yields available consistent with safety of principal.

- (4) The bond fund of Mutual's Separate Account No. 2 a fund owning shares of the Bond Fund of Mutual of America Investment Company in which funds are invested primarily in publicly-traded debt securities and other equity securities to achieve interest income and appreciation of capital.
- (5) The composite fund of Mutual's Separate Account No. 2 a fund owning shares of the Composite Fund of Mutual of America Investment Company in which funds are invested primarily in common stocks, publicly-traded debt securities and money market instruments to achieve a high return through a combination of current income and capital appreciation.

Contributions allocated to the investment funds described in Paragraphs (2), (3), (4) and (5) above will purchase accumulation units which are valued daily. The value of the contributions invested in each such investment fund will vary according to the investment experience of that investment fund.

If a designation pursuant to the first paragraph of this Section 6.2 is not made, it shall be presumed that the Basic Employee Contributions and the Employer Contributions with respect to the Participant shall be allocated to the investment fund described in Paragraph (1) above.

6.3 Transfer Between Accounts

At any time, a Participant may elect in a manner satisfactory to Mutual and subject to the restrictions of Section 1.6, to transfer all or a portion, as specified by the Participant in such election, of the amount in the Basic Employee Contribution Account or the Employer Contribution Account that is invested in any one of the investment funds described in Section 6.2 to any other of such investment funds. The effective date of any such transfer shall be the later of (a) the date the Participant shall specify in his election and (b) the date the election is received by Mutual.

6.4 Risk Of Loss

Each Participant shall assume all risk of any decrease in the value of his Accounts in Mutual's Separate Account.

6.5 Rollovers

A Participant may roll over all or part of his interest in another plan that meets the requirements of Section 403(b) of the Code to this Plan provided that some or all of the amounts distributed from the plan are rolled over to this Plan no later than the sixtieth day after distribution was made from that Plan. If distributions are made in installments, the amount distributed must be rolled over no later than the sixtieth day after the last distribution was made.

Section 7. VESTING AND FORFEITURES

7.1 Participant's Contributions

A Participant shall at all times have a nonforfeitable right to 100% of the amounts in his Accounts attributable to Participant's Contributions.

7.2 Employer Contributions

A Participant's right to the amounts in his Accounts attributable to Employer Contributions shall be 100% nonforfeitable if:

- (a) he has attained his Vested Retirement Age; or
- (b) his employment with the Employer terminates by reason of death before his Vested Retirement Age; or
- (c) his employment with the Employer terminates by reason of total and permanent disability before his Vested Retirement Age as certified by the Employer; or
- (d) his employment with the Employer terminates for a reason other than death or disability before his Vested Retirement Age and he has satisfied the vesting requirement indicated in Section 1.4-A.

If Section 1.4-A indicates that partial vesting applies under this Plan, and if the Participant terminates his employment with the Employer for a reason other than death before his Vested Retirement Age, the Participant's nonforfeitable right to the amounts in his Accounts attributable to Employer Contributions shall be equal to the nonforfeitable percentage of such amounts as determined in accordance with the schedule in Section 1.4-A.

All amounts in a Participant's Accounts attributable to Employer Contributions to which the Participant does not have a nonforfeitable right upon his termination of employment with the Employer shall be treated as a forfeiture as of such termination of employment and shall be treated in accordance with Section 7.3. If the Participant is later reemployed and is enrolled in this Plan, the Employer shall make a contribution with respect to the Participant of the amount required to restore the amounts forfeited upon the Participant's earlier termination of employment. The amount restored shall be the amount forfeited unadjusted for any gains or losses in the value of an Accumulation Unit and unadjusted for any interest earnings on assets in Mutual's General Account subsequent to the forfeiture.

7.3 Forfeitures

- (1) Forfeitures (and amounts attributable thereto) will be returned to the Employer.
- (2) Any dividends or credits earned on insurance contracts will be paid directly to the Employer.

7.4 Disability

If a Participant is totally and permanently disabled as certified by the Employer to Mutual, such Participant shall as of the date of disability become fully vested in the amounts in his Account(s) and must elect to receive such amounts in a lump sum or in the form of an annuity.

However, in the event a disabled Participant who had elected an annuity payment pursuant to the preceding paragraph recovers and is able to return to his employment with the Employer, such annuity payments shall be continued to be paid, and such Participant shall, with respect to future contributions, once again be subject to all the provisions of the Plan.

Section 8. WITHDRAWALS AND LOANS

8.1 Withdrawal Rights and Restrictions

Subject to the provisions of Code Section 72(q), an active Participant may withdraw all or a portion of the amounts accumulated in his Basic Employee Contribution Account and all or a portion of the vested part of his Employer Contribution Account due to financial hardship.

Any change in the provisions of the Code Section referred to in the preceding paragraph shall be immediately applied under this Plan without the necessity of an immediate amendment to this Plan.

8.2 Financial Hardship

For purposes of determining a Participant's financial hardship with respect to withdrawals, financial need related to sickness, disability, emergency or other conditions of hardship acceptable to the Employer shall be taken into consideration. The Employer, or any person or committee designated to do so, has the sole discretion to approve or disapprove requests for hardship withdrawals and the amount of the withdrawal in accordance with uniform policies established by the Employer treating Participants in similar circumstances in a similar manner.

8.3 Allocation of Withdrawals

Except as otherwise provided in this Section 8, any withdrawals made under this Section 8 may be made from any one or more of the investment funds described in Section 6.2 as directed by the Participant.

8.4 Loans to Participants

Mutual shall make loans to Participants if permitted under Section 1.5 of the Specifications. Loans shall be based upon the following terms and conditions, which may be amended from time to time.

Any application for a loan by a Participant shall be made in writing. Rules pertaining to loans shall be non-discriminatory and loans shall be granted to Participants on a reasonably equivalent basis.

- (1) The amount of any loan shall not be less than an established minimum that is in effect at the time a loan is made. Only to the extent that the Participant's vested Account Balance in the Interest Accumulation Account is sufficient, the amount of the loan, when added to the balance of the Participant's outstanding loans under this Plan and all other plans of the Employer, must not exceed \$10,000, or the lesser of:
 - (a) \$50,000 (reduced by the highest outstanding balance of any loan during the previous 12 months); and
 - (b) one-half of the value of the Participant's vested interest under all plans of the Employer that are administered underwritten by Mutual.

- (2) Within a 90-day period immediately before a loan is to be made to a Participant, or an increase in loan amount is to be made, such Participant must execute a repayment agreement and promissory note for such loan.

If the Participant is married, the Participant's Eligible Spouse must also execute such repayment agreement and promissory note in the same form and manner as provided for in Section 9, and such consent shall be deemed to meet any requirements contained in such Section relating to the consent of any subsequent Eligible Spouse.

- (3) As of the date a loan is to be made to a Participant, such Participant must indicate whether or not federal and or state income taxes are to be withheld in the event a withdrawal is made pursuant to Paragraph (7) of this Section 8.4 to satisfy a default in payment.
- (4) As of the date a loan is made to a Participant under this Plan, a portion of the Participant's Account Balance that is then in the Interest Accumulation Account shall be restricted and shall serve as collateral for such loan. Such restricted amount shall be of an amount equal to the loan principal plus an amount required to cover contingency expenses over the life of the loan. Such restricted amount, as may be reduced in accordance with Paragraph 8, will not be available to the Participant for transfer, withdrawal or any other distribution while there is an outstanding loan balance under this Plan.
- (5) The loan interest rate shall be such reasonable rate as declared by Mutual from time to time.
- (6) Subject to the requirements set forth in Paragraph (7) below, the repayment of any loan shall be amortized in equal installments payable no less frequently than on a quarterly basis.

The Participant may prepay at any time the full amount of any outstanding loan.

There will be a thirty-day grace period following each scheduled installment date for any payment on a loan.

- (7) Any loans made under this Plan must be repaid within five years, except that, in the case of a loan that is to be used to purchase any dwelling unit that, within a reasonable period of time, is to be used as the principal residence of the Participant, the loan may be repaid over any longer period that shall be established at the time the loan is made.

A default shall be deemed to occur if a Participant fails to make one or more of the scheduled installment payments. In the event of default, there shall be no foreclosure on the note and attachment of security until a distributable event occurs, and interest will continue to accrue and will be compounded until the earlier of repayment of the loan balance by the Participant or foreclosure on the note and attachment of the security.

A distributable event for purposes of such foreclosure shall be any of the following:

- (a) death
- (b) Annuity Commencement Date
- (c) Plan Termination
- (d) Termination of employment, but only with regard to the amount necessary to repay the outstanding loan balance.

In the event a loan default occurs, an amount that is necessary to satisfy the repayment of the loan balance, which shall include both principal and interest compounded to the date of withdrawal from the account pursuant to the preceding paragraph shall be withdrawn from the restricted amount held under the Contract. Such withdrawal shall be considered a withdrawal made by the Participant and shall offset the benefit to which the Participant is otherwise entitled.

- (8) All installment payments made by a Participant shall reduce the restricted amount by the amount of any principal repayment that is included in any such installment payment.
- (9) Mutual and the Employer shall have the right to terminate and the Employer the right to temporarily suspend the loan provision under this Section 8.4 at any time provided that such termination or suspension does not affect outstanding loans to any Participant. Notice of termination or suspension must be given in writing 30 days in advance of the termination effective date.

Section 9. BENEFITS

9.1 Retirement Benefit

Each Participant shall be entitled to receive a retirement benefit beginning at his Annuity Commencement Date. If, pursuant to Paragraph (1) or Paragraph (2) of Section 10.1, the Participant's retirement benefit is to be distributed in the form of a monthly annuity, such retirement benefit shall be the monthly amount that can be provided by the application, on the basis of the appropriate table of rates then in effect under the Contract, of 100% of the value of the nonforfeitable portion of the Participant's Accounts as of his Annuity Commencement Date.

9.2 Death Benefit

A death benefit equal to 100% of the value of the Participant's Accounts shall become payable under this Plan upon the death of a Participant who dies before his Annuity Commencement Date and before the date on which a distribution of the Participant's Accounts has been made in accordance with Paragraph (1) or Paragraph (2) of Section 10.1. Payment of the death benefit must commence no later than one year after the death of the Participant and must be distributed no later than five years after the death of the Participant. However, if the death benefit is to be paid to the Participant's Eligible Spouse, the death benefit (a) must commence on or before the date that is one year after the Participant's death or the date on which the Participant would have attained the maximum age prescribed by Code Section 401(a)(9)(C), whichever is earlier, and (b) if the Eligible Spouse dies before payments begin, subsequent distributions shall be made as if the Eligible Spouse had been the Participant.

If a Participant is married at the time of his death, the death benefit shall be distributed to the Participant's Eligible Spouse in the form of a monthly annuity on the Life Annuity form described in Paragraph (2)(c) of Section 10.2. However, at any time during an election period that shall begin on the first day of the Plan Year in which the Participant attains his thirty-second birthday or, if earlier, on the Participant's date of termination of employment with the Employer, and that shall end at the date of the Participant's death, the Participant may, with the consent of his Eligible Spouse, elect (with the right to revoke such election at any time): (a) to have such death benefit distributed to the Eligible Spouse in a single sum; or (b) to have such death benefit distributed to a Beneficiary other than the Participant's Eligible Spouse. In no event, however, shall any such election become effective before the first day of the Plan Year in which the Participant attains his thirty-fifth birthday. Such election (a) is to be made in writing on a form provided by the Plan Administrator, (b) is to be witnessed by a plan representative or a notary public, (c) if an election is made to have the death benefit distributed to a Beneficiary other than the Eligible Spouse, is to specify the Beneficiary who is to receive the death benefit in lieu of the Eligible Spouse, and (d) shall be effective only with respect to the person who is the Participant's Eligible Spouse at the time of the election. The Participant's Eligible Spouse shall

have the right to revoke consent to any such election at any time before the Participant's death.

If the Participant is not married at the time of his death, or, if the Participant is married at the time of his death and an election to have the death benefit distributed to another Beneficiary is then in effect with respect to the Participant, the death benefit shall be distributed in a single sum to the Beneficiary specified in said election.

The Plan Administrator shall furnish each Participant with a written explanation of the death benefit described in this Section 9.2 in such terms and in such manner as would be comparable to the explanation described in the last paragraph of Paragraph (1) of Section 10.1. Such explanation shall be furnished to the Participant within the period that begins on the first day of the Plan Year in which the Participant attains his thirty-second birthday and ends on the last day of the Plan Year immediately preceding the Plan Year in which the Participant attains his thirty-fifth birthday unless (i) the Participant enters the employment of the Employer after he attains his thirty-second birthday, in which case the explanation must be furnished to the Participant within the three-year period immediately following the first day of the Plan Year in which the Participant becomes enrolled in this Plan, or (ii) the Participant terminates his employment with the Employer before he attains his thirty-second birthday, in which case the explanation must be furnished to the Participant within the one-year period immediately following his date of termination of employment.

In lieu of the method of distribution described in the second or third paragraph of this Section 9.2, the Participant's Eligible Spouse, if applicable, or, if not applicable, the Beneficiary designated in writing by the Participant to receive the death benefit described in this Section 9.2, may elect, on Mutual's prescribed form, to have such death benefit distributed in whole or in part under an alternative method of distribution which, subject to the limits on distribution set forth in Paragraph (1) of Section 10.2, may be in the form of a monthly annuity on any one of the forms of annuity described in Paragraph (2) of Section 10.2.

Section 10. FORM OF BENEFIT PAYMENTS

10.1 Determination of Form of Payment

- (1) Subject to Paragraph (1) of Section 10.2, a Participant who is married and who begins to receive payments under this Plan shall have his retirement benefit distributed in the form of a monthly annuity on the Joint and Survivor 10 Years Certain and Continuous Annuity form described in Paragraph (2)(a) of Section 10.2 with the Participant's Eligible Spouse as the joint annuitant. However, at any time during the election period described in Paragraph (3) of this Section 10.1, such Participant may elect (with the right to revoke such election at any time before his Annuity Commencement Date) not to have his retirement benefit distributed in this manner and may instead elect (with the right to revoke such election at any time before his Annuity Commencement Date) to have his retirement benefit distributed in one of the following alternative forms of payment subject, in the case of the forms of payment described in the following Clauses (a), (d) and (e), to the limits on distribution set forth in Paragraph (1) of Section 10.2:
 - (a) as a monthly annuity on the Joint and Survivor 10 Years Certain and Continuous Annuity form described in Paragraph (2)(a) of Section 10.2 with a person other than the Participant's Eligible Spouse named as the joint annuitant,
 - (b) as a monthly annuity on the Joint and Survivor Life Annuity form described in Paragraph (2)(b) of Section 10.2,
 - (c) as a monthly annuity on the Life Annuity form described in Paragraph (2)(c) of Section 10.2,
 - (d) as a monthly annuity on the 10 Years Certain and Continuous Annuity form described in Paragraph (2)(d) of Section 10.2,
 - (e) as a monthly annuity on the 15 Years Certain and Continuous Annuity form described in Paragraph (2)(e) of Section 10.2,
 - (f) as a monthly annuity on the Full Cash Refund Annuity form described in Paragraph (2)(f) of Section 10.2, or
 - (g) as a single sum cash payment under the Lump Sum Option described in Paragraph (2)(g) of Section 10.2.

Any election by a Participant to have his retirement benefit distributed in a form of annuity other than a joint and survivor form of annuity with his Eligible Spouse as the joint annuitant, is to be made in writing on a form provided by the Plan Administrator. Such election shall not take effect unless:

- (a) the Participant's Eligible Spouse consents in writing to any such election and such consent acknowledges the effect of

such election and is witnessed by a plan representative or a notary public, or

- (b) it is established to the satisfaction of the Plan Administrator that the consent required of the Eligible Spouse may not be obtained because there is no Eligible Spouse, because the Eligible Spouse cannot be located, or because of such other circumstances as the Secretary of the Treasury may by regulations prescribe.

Any consent by an Eligible Spouse pursuant to the preceding paragraph must be made within the 90 days' period immediately preceding the Participant's Annuity Commencement Date, and such consent shall be effective only with respect to the person who is the Participant's Eligible Spouse at the time of the Participant's election.

On or before the later of (i) the Participant's date of employment with the Employer and (ii) the date that is nine months before the Participant's Qualified Early Retirement Age, the Plan Administrator shall furnish the Participant with a written explanation of:

- (a) the terms and conditions of a joint and survivor form of annuity,
 - (b) the Participant's right to make, and the effect of, the election described in the second paragraph of this Paragraph (1),
 - (c) the rights of the Participant's Eligible Spouse with respect to said election or a revocation of said election, and
 - (d) the Participant's right to make, and the effect of, a revocation of said election.
- (2) Subject to Paragraph (1) of Section 10.2, a Participant who is not married and who begins to receive payments under this Plan shall have his retirement benefit distributed in the form of a monthly annuity on the 10 Years Certain and Continuous Annuity form described in Paragraph (2)(d) of Section 10.2. However, at any time during the election period described in Paragraph (3) of this Section 10.1, such Participant may elect (with the right to revoke such election at any time before his Annuity Commencement Date) not to have his retirement benefit distributed in this manner and may instead elect (with the right to revoke such election at any time before his Annuity Commencement Date) to have his retirement benefit distributed in one of the following alternative forms of payment subject, in the case of the forms of payment described in the following Clauses (a) and (d), to the limits on distribution set forth in Paragraph (1) of Section 10.2:
- (a) as a monthly annuity on the Joint and Survivor 10 Years Certain and Continuous Annuity form described in Paragraph (2)(a) of Section 10.2,

- (b) as a monthly annuity on the Joint and Survivor Life Annuity form described in Paragraph (2)(b) of Section 10.2,
 - (c) as a monthly annuity on the Life Annuity form described in Paragraph (2)(c) of Section 10.2,
 - (d) as a monthly annuity on the 15 Years Certain and Continuous Annuity form described in Paragraph (2)(e) of Section 10.2,
 - (e) as a monthly annuity on the Full Cash Refund Annuity form described in Paragraph (2)(f) of Section 10.2, or
 - (f) as a single sum cash payment under the Lump Sum Option described in Paragraph (2)(g) of Section 10.2.
- (3) The election period referred to in Paragraphs (1) and (2) of this Section 10.1 shall be established by the Plan Administrator and shall begin as of the later of (i) a Participant's date of employment with the Employer and (ii) a date that is at least 90 days before a Participant's Qualified Early Retirement Age.

10.2 Method of Distribution

(1) Limits on Distribution

The methods of payment available under this Plan are those described in the following Paragraph (2), provided that:

- (a) if the retirement benefit of a married Participant is to be distributed in the form of a monthly annuity on the Joint and Survivor 10 Years Certain and Continuous Annuity form described in Paragraph (2)(a) of this Section 10.2, and if, at the time payments commence, the joint life expectancies of the Participant and his Eligible Spouse will not exceed ten years, then, anything in Paragraph (1) of Section 10.1 to the contrary notwithstanding, the Participant's retirement benefit shall be distributed in the form of a monthly annuity on the Joint and Survivor Life Annuity form described in Paragraph (2)(b) of this Section 10.2 with the Participant's Eligible Spouse as the joint annuitant;
- (b) if the retirement benefit of a Participant who is not married is to be distributed in the form of a monthly annuity on the 10 Years Certain and Continuous Annuity form described in Paragraph (2)(d) of this Section 10.2, and if, at the time payments commence, the joint life expectancies of the Participant and the Beneficiary designated in writing by the Participant will not exceed ten years, then, anything in Paragraph (2) of Section 10.1 to the contrary notwithstanding, the Participant's retirement benefit shall be distributed in the form of a monthly annuity on the Life Annuity form described in Paragraph (2)(c) of this Section 10.2;

- (c) the forms of payment described in Paragraphs (2)(a), (2)(d) and (2)(e) of this Section 10.2 may be elected as alternative forms of distribution only if, at the time payments are due to commence: (i) the joint life expectancies of the person making such election and the joint annuitant named by such person will exceed ten years, in the case of the Joint and Survivor 10 Years Certain and Continuous Annuity form, (ii) the joint life expectancies of the person making such election and the Beneficiary designated in writing by such person will exceed ten years, in the case of the 10 Years Certain and Continuous Annuity form, and (iii) the joint life expectancies of the person making such election and the Beneficiary designated in writing by such person will exceed fifteen years, in the case of the 15 Years Certain and Continuous Annuity form;
- (d) if a Participant dies on or after his Annuity Commencement Date and before the Participant's entire interest under this Plan has been distributed, the remaining portion of such interest shall be distributed at least as rapidly as under the form of payment in effect with respect to the Participant at his date of death; and
- (e) if a joint annuitant or a Beneficiary is other than the Participant's Eligible Spouse, and if the value of the Participant's benefit under the form of annuity elected would be less than 50% of the value of his benefit that would be payable on the Life Annuity form, such benefit on the form of annuity elected shall be adjusted so that the value of the Participant's benefit under the form elected shall be equal to 50% of the value of the Participant's benefit on the Life Annuity form.

(2) Forms Described

(a) Joint and Survivor 10 Years Certain and Continuous Annuity

The Joint and Survivor 10 Years Certain and Continuous Annuity form provides for monthly payments in an amount actuarially equivalent, when computed on the basis of mortality and interest assumptions determined by Mutual, of the value of the Participant's Accounts as of his Annuity Commencement Date, continuing to the first day of the month in which the death of the survivor of the Participant and his joint annuitant occurs or the end of the certain period of 120 months, whichever is later. If the Participant's death occurs before the death of his joint annuitant, payments of an amount equal to $66\frac{2}{3}\%$ of the monthly payment to the Participant shall be continued to the joint annuitant. If both the Participant and his joint annuitant die before the end of the certain period, payments of an amount equal to the monthly payment paid immediately before the death of the survivor of the Participant and his joint annuitant shall be continued to the end of such period to the Beneficiary designated to receive such payments in

accordance with Section 10.4. If this form of annuity is elected by a Participant, the joint annuitant shall be the person named by the Participant at the time he makes such election. If the joint annuitant should die before the Participant's Annuity Commencement Date, the election of this form of annuity shall automatically be cancelled.

(b) Joint and Survivor Life Annuity

The Joint and Survivor Life Annuity form provides for monthly payments in an amount actuarially equivalent, when computed on the basis of mortality and interest assumptions determined by Mutual, of the value of the Participant's Accounts as of his Annuity Commencement Date, continuing to the first day of the month in which the death of the survivor of the Participant and his joint annuitant occurs. If the Participant's death occurs before the death of his joint annuitant, payments of an amount equal to 66-2/3% of the monthly payment to the Participant shall be continued to the joint annuitant. If this form of annuity is elected by a Participant, the joint annuitant shall be the person named by the Participant at the time he makes such election. If the joint annuitant should die before the Participant's Annuity Commencement Date, the election of this form of annuity shall automatically be cancelled.

(c) Life Annuity

The Life Annuity form provides for monthly payments to the Participant continuing to the first day of the month in which his death occurs.

(d) 10 Years Certain and Continuous Annuity

The 10 Years Certain and Continuous Annuity form provides for monthly payments continuing to the first day of the month in which the Participant's death occurs or the end of the certain period of 120 months, whichever is later. If the Participant dies before the end of the certain period, payments in the same amount shall be continued to the end of such period to the Beneficiary designated to receive such payments in accordance with Section 10.4.

(e) 15 Years Certain and Continuous Annuity

The 15 Years Certain and Continuous Annuity form provides for monthly payments continuing to the first day of the month in which the Participant's death occurs or the end of the certain period of 180 months, whichever is later. If the Participant dies before the end of the certain period, payments in the same amount shall be continued to the end of such period to the Beneficiary designated to receive such payments in accordance with Section 10.4.

(f) **Full Cash Refund Annuity**

The Full Cash Refund Annuity form provides for monthly payments to the Participant continuing to the first day of the month in which his death occurs. Upon his death, the Beneficiary designated to receive payments in accordance with Section 10.4 shall be entitled to receive, in cash, the excess, if any, of 100% of the value of the Participant's Accounts as of his Annuity Commencement Date over the aggregate amount of payments made to the Participant.

(g) **Lump Sum Option**

The Lump Sum Option provides for a single sum cash payment to the Participant equal to 100% of the value of the Participant's Accounts as of his Annuity Commencement Date.

(3) **Social Security Adjustment**

A Participant whose retirement benefit begins before the earliest date on which his primary insurance benefit begins under the Social Security Act may elect, with the consent of Mutual and, in the case of a married Participant, the consent of the Participant's Eligible Spouse, to receive an adjusted retirement benefit before the first date on which he becomes eligible to receive such primary insurance benefit and a reduced retirement benefit thereafter. The adjusted retirement benefit shall be calculated so that the retirement benefit payable to the Participant before the date on which he becomes eligible to receive his primary insurance benefit shall be equal as nearly as possible to the sum of (a) the reduced retirement benefit payable after such date and (b) the estimated primary insurance benefit payable to the Participant beginning on such date.

The election referred to in the preceding paragraph shall not become operative if the reduced retirement benefit is less than \$20.

10.3 Small Benefit Payments

If, at a Participant's Annuity Commencement Date or at any earlier date on which a Participant terminates his employment with the Employer, the value of the amount in the Participant's Accounts does not exceed \$3,500 (or such other maximum amount that may hereafter be prescribed in future governmental regulations), a single sum distribution will be made to the Participant of an amount equal to the entire vested portion of such Participant's Accounts, and the non-vested portion will be treated as a forfeiture.

If a Participant terminates employment and, upon such termination of employment, receives a single sum distribution of less than the amount in his Accounts, and if the Participant is later reemployed and is enrolled under this Plan, then (a) the non-vested portion of the Participant's Accounts will be restored to the amount forfeited upon the

Participant's earlier termination of employment, and (b) the vested portion of the Participant's Accounts will be restored to the amount therein on the date the single sum distribution was made provided the Participant repays, no later than the end of the two years' period beginning with his date of reemployment or the end of the five years' period beginning with the date the single sum distribution was made, whichever is earlier, the single sum distribution plus interest at the rate of 5% a year compounded annually, from the date the single sum distribution was made to the date of repayment.

10.4 Beneficiary

A Participant shall designate, with the right to change such designation, a Beneficiary to receive any payment or payments to which a Beneficiary may become entitled under the Plan. If no designated Beneficiary is surviving when a payment is to be made to a Beneficiary, any single sum payment or the commuted value of any remaining periodic payments shall be made to the person or persons in the first surviving class of the following classes of successive preference beneficiaries: (a) the Participant's surviving spouse; (b) the Participant's surviving children; (c) the Participant's surviving parents; (d) the Participant's surviving brothers and sisters; (e) the executors or administrators of the Participant's estate.

Any commuted value shall be determined on the basis of compound interest at a rate, determined by Mutual, that is consistent with the interest assumption of the rates used to determine the amount payable under the annuity benefit.

Section 11. ADMINISTRATION AND FUNDING

11.1 Rights Under Plan

The rights of Participants, Eligible Spouses, and Beneficiaries to receive any benefits under this Plan, and the amount of any such benefits, shall be determined in accordance with the terms of this Plan.

The payments of benefits under this Plan or any Prior Plan with respect to a Participant shall, if applicable, be subject to the requirements of any qualified domestic relations order in effect with respect to the Participant. If the former spouse of such a Participant cannot be located, any benefits payable to such former spouse shall not be forfeited (escheated) and such benefits shall be fully reinstated when the former spouse is located.

In any event, no benefit shall be paid under this Plan unless and until all information, notices and papers necessary to process the benefit have been received by Mutual or by the Plan Administrator.

11.2 Rules

Any general rules which may be adopted under this Plan shall operate so as not to discriminate in favor of any person. The records of the Plan Administrator as furnished to Mutual shall be conclusive and binding upon the Employer and all other persons having an interest under this Plan.

11.3 Payment Of Plan Benefits

The payment of the benefits provided by this Plan shall be made either by (a) Mutual under the terms of the Contract, (b) another insurance carrier under the terms of a group annuity contract issued by such other carrier to the Employer to fund this Plan or (c) such other duly authorized entity under which this Plan is funded.

11.4 Funding Procedure

The funding policy for the Plan will be a policy of paying to Mutual the contributions required under the Contract.

11.5 Fiduciaries

The Employer has the overall responsibility and authority as the Named Fiduciary, as described in Section 402 of ERISA, to manage and control the operation and administration of this Plan. The Named Fiduciary may designate one or more persons to carry out his fiduciary responsibilities and authority under the Plan and his duties as the Plan Administrator.

11.6 Responsibility Of Fiduciaries

- (1) The Employer and Mutual shall discharge their respective duties with respect to the Plan solely in the interest of the

Participants, Eligible Spouses, and Beneficiaries and with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims.

- (2) The Named Fiduciary shall not be liable for an act or omission of another person in carrying out any fiduciary responsibility where such fiduciary responsibility is allocated to such other person by the Named Fiduciary except to the extent that:
 - (a) The Named Fiduciary participated knowingly in, or knowingly undertook to conceal, an act or omission of such other person, knowing such act or omission to be a breach of fiduciary responsibility.
 - (b) The Named Fiduciary by his failure to comply with Section 404(a)(1) of ERISA in the administration of his specific responsibilities which give rise to his status as a Named Fiduciary, has enabled such other person to commit a breach of fiduciary responsibility.
 - (c) The Named Fiduciary has knowledge of a breach of fiduciary responsibility by such other person, unless he makes reasonable efforts under the circumstances to remedy the breach.
 - (d) The Named Fiduciary has violated his duties under Section 404(a)(1) of ERISA:
 - (i) with respect to the allocation of fiduciary responsibilities among the persons designated by the Named Fiduciary to carry out fiduciary responsibilities under this Plan;
 - (ii) with respect to the establishment or implementation of procedures for allocating fiduciary responsibilities among the persons designated by the Named Fiduciary to carry out fiduciary responsibilities under this Plan; or
 - (iii) in continuing the allocation of fiduciary responsibilities among the persons designated by the Named Fiduciary to carry out fiduciary responsibilities under this Plan.
- (3) Anything in the Plan or any amendments thereof to the contrary notwithstanding, no provision of this Plan shall be so construed as to violate the requirements of Sections 404, 405, 406 and 407 of ERISA.

11.7 Powers And Duties Of The Plan Administrator

The Plan Administrator shall have such powers and duties necessary to carry out the provisions of the Plan, and to discharge his duties

hereunder, and without limiting the generality of the foregoing, shall have the following powers:

- (1) to adopt such policies, rules and regulations as he may deem necessary and proper to carry out the provisions of this Plan, which policies, rules and regulations may be changed from time to time in the light of experience, and which policies, rules and regulations shall be applied fairly and uniformly to all Participants;
- (2) to decide applicable questions arising in the administration, interpretation, and application of this Plan, including questions of eligibility of Employees and of the status and rights of Participants, Beneficiaries, and any other person hereunder;
- (3) to maintain, in conjunction with the Employer, all necessary records for the proper administration of this Plan;
- (4) to receive from the Employer and from Participants such information as shall be necessary for the proper administration of this Plan;
- (5) to be responsible for the preparation and filing of all reports, returns and other documents required under ERISA or the Code;
- (6) to furnish each Participant with such information and reports as may be required by law or by the terms of the Plan.

The decisions and determinations of the Plan Administrator made in good faith upon any matter within the scope of his authority shall be conclusive and binding on all persons, and the Plan Administrator shall act in a uniform and nondiscriminatory manner in carrying out his decisions hereunder. The Plan Administrator shall have no power to add to, or subtract from or modify any of the terms of this Plan, or to change or add to any benefits provided by this Plan, or to waive or fail to apply any requirements of eligibility under this Plan.

11.8 Claim Procedures

All claims for benefits under this Plan shall be directed to the attention of the Plan Administrator. The Plan Administrator shall notify Mutual of such claims on prescribed forms furnished to the Plan Administrator by Mutual for such purposes. Mutual shall have 90 days after receipt of the claim within which to render a decision, and upon written notice to the claimant, may extend this period for an additional 90 days if there are special circumstances that require such an extension. In the event that a claim is wholly or partially denied, Mutual shall give notice to the Plan Administrator of such denial in sufficient detail so that the Plan Administrator may inform the claimant of the reason or reasons for the denial, the specific reference to the Plan provisions on which the denial was based, any additional information which may be necessary to perfect the claim with the reasons therefor, and the procedure for reviewing denied claims.

11.9 Claim Review Procedures

In the event a claim is wholly or partially denied, the claimant or his representative shall have a reasonable opportunity to appeal to Mutual for review thereof by requesting such review in writing to the Plan Administrator who shall transmit the request for review to Mutual. The claimant shall have a right to review all pertinent documents and submit the issues and comments in writing.

Mutual shall render a decision on review not later than 60 days after its receipt from the Plan Administrator of the request for review unless special circumstances require extension, in which case the decision may, upon written notice to the claimant, be rendered within 120 days from Mutual's receipt of the request for review.

The decision on the review shall be in writing and shall include specific reasons with specific reference to the Plan provisions upon which it is based.

11.10 Agents Of The Plan Administrator

The Plan Administrator may employ agents and provide for such clerical, legal, accounting, advisory or other services as he deems necessary to perform his duties under this Plan. The Plan Administrator shall be fully protected in respect to any action taken or omitted by him in good faith resulting from reliance upon the advice or services of any such agents.

11.11 Certain Records

The Plan Administrator shall keep on file at the Employer's office a copy of this Plan and the Contract, including any subsequent amendments thereto, and all annual reports for this Plan, for examination by Participants during reasonable business hours to the extent required by law, and, in addition, shall maintain adequate records of his actions in administering this Plan. A Participant shall not be entitled to receive records pertaining to any other Participant. The Plan Administrator may, in his complete discretion, cause to be sent to the Participants other statements of their respective benefits.

11.12 Reports

The Plan Administrator so charged with the responsibility to administer this Plan shall file all reports and take such other actions as he shall deem necessary in order to comply fully with the reporting requirements of ERISA and the Code and with any additional reporting requirements imposed by any regulations issued thereunder.

11.13 Information From Employer

The Employer shall promptly furnish all necessary information to the Plan Administrator to permit him to perform his duties and responsibilities under this Plan. The Plan Administrator shall be entitled to rely on the accuracy and completeness of all information supplied to him by the Employer, unless he knows or should have known that such information is erroneous.

Section 12. GENERAL PROVISIONS

12.1 Non-Alienation Of Benefits

Except as may otherwise be provided in accordance with a loan agreement entered into under this Plan or any qualified domestic relations order as defined in Section 414(p) of the Code in effect with respect to a Participant, no amount payable under this Plan with respect to a Participant may be assigned (either at law or in equity), alienated or be subject to attachment, garnishment, levy (other than a Federal tax levy made pursuant to Section 6331 of the Code), execution or other legal or equitable process, and, to the extent permitted by law, no such amount shall in any way be subject to any legal process to subject the same to the payment of any claim against the payee.

12.2 Facility Of Payment

If Mutual receives evidence satisfactory to it that (i) a payee entitled to receive any payment under this Plan is physically or mentally incompetent to receive such payment or is a minor, (ii) another person or an institution is then maintaining or has custody of such payee, and (iii) no guardian, committee, or other representative of the estate of such payee has been appointed, Mutual may make the payments (in the case of a minor, at a rate not to exceed \$250 a month) to such other person or institution, and thereupon Mutual and the Employer shall be fully discharged from all liability with respect thereto.

If the payee referred to in the preceding paragraph is a minor, and if Mutual receives evidence satisfactory to it that (i) a guardian of the payee has been appointed, or (ii) the payee has attained his majority, Mutual shall, as of the first day of the calendar month following receipt of such evidence,

- (a) pay in a single sum to the appointed guardian or payee the amount, if any, by which the aggregate of the monthly payments that became due with respect to the payee under this Plan before receipt of such evidence exceeds the aggregate of the monthly payments actually made with respect to the payee pursuant to the preceding paragraph, and
- (b) commence monthly payments to the appointed guardian or payee of the monthly amount that, but for the limitations of the preceding paragraph, would otherwise have been payable with respect to the payee under this Plan.

12.3 Evidence Of Survival

When an annuity payment is contingent upon the survival of any person, evidence of such person's survival must be furnished to Mutual either by the personal endorsement of the check drawn for such payment or by other means that is satisfactory to Mutual.

12.4 Misstated Information

If a benefit payable under this Plan with respect to a Participant was based on information that has been misstated, such benefit shall not be invalidated but the amount of the benefit shall be adjusted to the proper amount as determined on the basis of the correct information. Overpayments shall be charged against and underpayments shall be added to any payments thereafter falling due with respect to the Participant.

12.5 Receipt Of Notice

Wherever any right is established or benefit conferred upon any Participant or payee, upon the receipt of information by Mutual, such receipt shall be deemed to take place on the business day that such information is delivered by mail to Mutual.

12.6 Limitation Of Liability

The payment of any benefits under this Plan is limited to the amount that can be provided by the funds under the Contract in accordance with the terms of the Contract. Neither the Employer nor Mutual shall have any liability in excess of this, except as may be provided by ERISA.

12.7 Separability Of Provisions

If any provision of this Plan is found to be invalid, the remainder of the provisions shall remain in full force and effect.

12.8 Rights Of Employees

The establishment of this Plan shall not be construed as conferring any right upon any Employee or any other person for a continuation of employment, nor shall it be construed as limiting in any way the right of the Employer to discharge any Employee or to treat him without regard to the effect which such treatment might have upon him as a Participant under this Plan.

12.9 Payment Of Benefits

Payment of benefits under this Plan shall be made by Mutual directly to Participants and Beneficiaries at the last known address filed with Mutual by the Plan Administrator.

12.10 Conflict With Contract

In the event of any conflict between the terms of this Plan and the terms of any insurance contract referred to herein, the Plan provisions shall control.

12.11 Transfer Of Funds From Another Plan

If this Plan is an amendment, replacement, or restatement of one or more plans of the Employer, Mutual shall accept contributions in cash or property which are transferred directly from any of such plans, whether such plans are funded through a trusteed arrangement or through an annuity contract, provided that such contributions are attributable only to employer and employee contributions, and the earnings thereon.

Section 13. AMENDMENT AND TERMINATION

13.1 Amendment

The Employer, with the consent of Mutual, shall have the right at any time to modify or amend this Plan, provided, however, that Mutual shall have the sole right at any time to make any modification or amendment that may be necessary to facilitate Mutual's administration of this Plan. If Mutual exercises the right reserved to it in the preceding sentence, Mutual shall give to the Employer at least 31 days' advance notice of such modification or amendment.

Any modification or amendment made pursuant to this Section 13.1 may apply, in whole or in part, to any or all of the provisions of this Plan and the right of Mutual or the Employer, as the case may be, to make such modification or amendment is subject to the condition that: (a) no modification or amendment may be made which will materially affect the benefits under this Plan of anyone receiving a retirement income whether he be a Participant or a Beneficiary; (b) no part of the assets of this Plan shall, by reason of any modification or amendment, be used for, or diverted to, purposes other than for the exclusive benefit of Participants and Beneficiaries under this Plan; and (c) no amendment to the vesting schedule in Section 1.4 shall deprive a Participant of his nonforfeitable right to the portion of his Accounts attributable to Employer Contributions. Furthermore, if the Employer amends the vesting schedule of this Plan or if this Plan is amended in any way that directly or indirectly affects the computation of a Participant's nonforfeitable percentage, each Participant with at least 5 Years of Vesting Service or beginning January 1, 1989, a Participant with at least 3 Years of Vesting Service may elect to have his nonforfeitable percentage computed under the Plan without regard to such amendment. The period during which the election may be made shall begin on the date on which the amendment is adopted and shall end 60 days after the latest of:

- (a) the date the amendment is adopted.
- (b) the date the amendment becomes effective, and
- (c) the date the Participant is issued written notice of the amendment by the Employer or Plan Administrator.

13.2 Termination

The Employer has the right at any time to terminate this Plan in whole or in part or to discontinue contributions at any time, without the consent of any Participant, upon at least 31 days' advance written notice to Mutual. Upon a complete or partial termination of this Plan or upon a complete discontinuance of contributions, the rights of affected Participants under the Plan shall become fully vested and nonforfeitable.

13.3 Non-Diversion Of Plan Assets

No part of the corpus of the funds or income of this Plan may, by reason of any modification, amendment or termination or otherwise, be used for, or diverted to, purposes other than for the exclusive benefit of Participants or their Beneficiaries.

13.4 Allocation

If this Plan is terminated, the funds of this Plan held by Mutual which are then allocated to individual Participants, former Participants or Beneficiaries, shall remain allocated to such persons except to the extent that Section 4044 of ERISA requires any benefits to be cancelled or funds to become unallocated. Mutual will determine cancellation values and credits to unallocated funds in the case of any benefits to be cancelled and any funds to become unallocated.

There shall be no liability or obligation on the part of the Employer to make any further contributions under this Plan toward the provision of such benefits in the event of termination of this Plan, except as may be required by ERISA.

13.5 Merger Or Consolidation

This Plan shall not be merged or consolidated with, nor shall any assets or liabilities of this Plan be transferred to, any other retirement plan unless:

- (a) immediately after the merger, consolidation or transfer each Participant in this Plan would receive a benefit equal to or greater than the benefit he would have been entitled to receive if this Plan had terminated immediately before the merger, consolidation or transfer, and
- (b) resolutions of the Board of Directors of the Employer, or of any new or successor Employer of the affected Participants, shall authorize such transfer of assets with such resolutions to include, in the case of such new or successor Employer, an assumption of liabilities with respect to the inclusion of such Participants in the new Employer's plan.

For the purposes of this Section 13.5, the amount of benefit each Participant is entitled to receive immediately before a merger shall be the benefit provided by the funds allocated to each Participant under the provisions of Section 13.3 determined as if this Plan had terminated on the day immediately preceding a merger.

The amount of benefit each Participant is entitled to receive immediately after a merger shall be determined under the applicable provisions of the merged plan on the assumption that the merged plan terminated the day after the merger and the funds held by the merged plan are allocated to Participants in accordance with the provisions of Section 13.4 of this Plan.