

UNIVERSITY OF ST. THOMAS
VOLUNTARY RETIREMENT ARRANGEMENT
Restatement
Effective January 1, 2009

UNIVERSITY
of ST. THOMAS
MINNESOTA

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**UNIVERSITY OF ST. THOMAS
VOLUNTARY RETIREMENT ARRANGEMENT**

**ARTICLE I
Background and Definitions**

Section 1.1 History and Purpose.

(a) Since prior to September 1, 1976, the University of St. Thomas (f/k/a The College of St. Thomas) has permitted certain of its employees to reduce their wages or salary by a specified amount and the University has contributed a like amount to Carriers pursuant to the terms of annuity contracts entered into by those employees pursuant to Section 403(b) of the Code (the “403(b) Arrangement”). The terms of such annuity contracts and other Savings Vehicles underlying this 403(b) Arrangement have been and may be changed from time to time to comply with applicable changes in the law governing 403(b) arrangements. This document sets forth the provisions of the 403(b) Arrangement as restated and amended as of January 1, 2009, unless otherwise expressly stated.

(b) It is the intention of the University of St. Thomas that the 403(b) Arrangement comply with the provisions of Section 403(b) of the Internal Revenue Code of 1986 and other provisions of law relating hereto.

(c) The University of St. Thomas does not intend that the 403(b) Arrangement qualify as a pension benefit plan under the Employee Retirement Income Security Act of 1974 (“ERISA”). The University of St. Thomas’s involvement with the 403(b) Arrangement is limited to facilitating employee contributions to the 403(b) accounts maintained by one or more available investment vehicles. The University of St. Thomas is sponsoring the drafting and execution of this document for its own recordkeeping purposes and the existence of this document shall not be construed as evidence that the 403(b) Arrangement is governed by ERISA.

Section 1.2 Effective Date. The provisions of this amendment and restatement of the 403(b) Arrangement shall be effective as of January 1, 2009, unless otherwise provided herein.

Section 1.3 Definitions. The terms defined in this section, when used in the 403(b) Arrangement with initial capital letters, have the following meanings unless the context clearly indicates that other meanings are intended:

403(b) Arrangement. “403(b) Arrangement” means the University of St. Thomas Voluntary Retirement Arrangement (it was referred to as the University of St. Thomas Voluntary Tax-Deferred Retirement Plan prior to this restatement).

403(b) Arrangement Year. “403(b) Arrangement Year means the 12-month calendar year.

Alternate Payee. “Alternate Payee” means any Spouse, former Spouse, child, or other dependent of a Participant who is recognized by a Domestic Relations Order as having a right to receive all, or a portion of, the benefits payable under the 403(b) Arrangement with respect to such Participant.

Beneficiary. “Beneficiary” means the person, persons, trustee, or estate determined pursuant to the terms of a Participant’s Savings Vehicle to receive the Participant’s benefits under that Savings Vehicles at his or her death. No Beneficiary shall have any rights under the Savings Vehicle until benefits actually become payable under the Savings Vehicle to such Beneficiary.

Carrier. “Carrier” means any company qualified to issue annuity contracts within the meaning of Section 403(b) of the Code and also means a regulated investment company within the meaning of that section.

Code. “Code” means the Internal Revenue Code of 1986, as amended, and successor laws, thereto, any regulations promulgated thereunder and any other binding pronouncement of an agency of the federal government that has jurisdiction with respect thereto.

Compensation. “Compensation” means compensation as defined under Section 1.415-2(d)(11)(ii) of the Treasury Regulations (wages subject to income tax withholding). However, Compensation shall include any salary reductions made by the Employee’s Participating Employer which are not includable in the gross income of the Employee under Sections 125 or 402(e)(3) of the Code. For calendar years beginning on or after January 1, 2001, Compensation shall also include elective amounts that are not includable in the gross income of an Employee by reason of Section 132(f)(4) of the code.

Deferral. “Deferral” means that portion of a Participant’s Compensation the Participant has elected to have the Participating Employer contribute to the 403(b) Arrangement on his or her behalf.

Domestic Relations Order. “Domestic Relations Order” means any judgment, decree, or order (including approval of a property settlement agreement) which:

(1) relates to the provision of child support, alimony payments, or marital property rights to a Spouse, former Spouse, child, or other dependent of a Participant, and

(2) is made pursuant to a state domestic relations law (including a community property law).

Eligible Employee.

(1) Subject to the exclusions in Paragraph (2), an “Eligible Employee” is an individual who is an Employee of a Participating Employer.

(2) An individual is not an Eligible Employee during any period that the individual is:

(A) a non-resident alien;

(B) a student performing services described in Code section 3121(b)(10);

Employer. “Employer” means the employer of a common law employee.

Employee. “Employee” is a natural person employed in the service of the Employer as a common law employee.

Nonspouse Beneficiary. A “Nonspouse Beneficiary” is any Beneficiary other than the Surviving Spouse.

Participant. “Participant” means an Employee who has elected to participate in accordance with Article III and made contributions pursuant to Article IV.

Participating Employer. “Participating Employer” means the University and any other Employer which has adopted the 403(b) Arrangement pursuant to the provisions of Article II.

Qualified Domestic Relations Order. The phrase “Qualified Domestic Relations Order” means a Domestic Relations Order:

(1) which creates or recognizes the existence of an Alternate Payee’s right to, or assigns to an Alternate Payee the right to, receive all or a portion of the benefits payable with respect to a Participant under the 403(b) Arrangement, and

(2) with respect to which the requirements described in the remainder of this definition are met.

A Domestic Relations Order shall be a Qualified Domestic Relations Order only if such order meets the express qualification requirements specified by the Carrier.

Related Employer. “Related employer” means any Employer, other than a Participating Employer, which is part of a group of corporations or other business organizations with the University determined by using tests established under Section 414 of the Code, but modified by Section 415(h) of the Code for purposes of Section 415 of the Code.

Rollover Contributions. “Rollover Contributions” means contributions made by an Employee as described in Section 4.4.

Savings Vehicle. “Savings Vehicle” means an annuity contract or custodial account available under the 403(b) Arrangement.

Spouse (Surviving Spouse). “Spouse (Surviving Spouse)” means the spouse or surviving spouse of a Participant provided that the term “Spouse” (“Surviving Spouse”) shall include a former spouse of a Participant to the extent provided under a Qualified Domestic Relations Order as described in Section 414(p) of the Code.

Termination of Employment. “Termination of Employment” means that an individual’s status as an Employee of an Employer ceases for any reason other than the individual’s death. An individual who does not return to work for such Employer on or before the expiration of an authorized leave of absence from such Employer shall be deemed to have incurred a Termination of Employment when such leave ends.

Termination of Service. “Termination of Service” means that an individual has ceased to be an Employee of all Participating Employers and Related Employers.

University. “University” means the University of St. Thomas.

ARTICLE II **Participating Employers**

Section 2.1 Eligibility. In order to be eligible to adopt the 403(b) Arrangement, an Employer must be designated as eligible in resolutions duly adopted by the University’s Board of Trustees, as evidenced by copies thereof certified by the secretary (or other authorized person) of the University and delivered to such Employer. The resolutions may specify the date as of which such Employer’s participation may become effective.

Section 2.2 Commencement of Participation. An eligible Employer may adopt the 403(b) Arrangement by resolution duly adopted by its Board of Trustees or other managing body, as evidenced by copies thereof certified by its secretary or assistant secretary (or other authorized person) and delivered to the University. Upon such delivery to the University of a certified copy of that resolution, the Employer shall become a Participating Employer effective upon the later of the date specified in the resolution or the resolutions of the University’s Board of Trustees. If no date is specified in such resolutions, the eligible Employer shall become a Participating Employer as of the first day of the first 403(b) Arrangement Year subsequent to the date on which all such resolutions have been duly adopted.

ARTICLE III **Eligibility and Participation**

Section 3.1 Participation of Eligible Employees. An Eligible Employee shall become a Participant in the 403(b) Arrangement after the proper completion, signing, and

filing of a salary reduction agreement providing for deferrals and after entering into an agreement with a Carrier that establishes a Savings Vehicle. The salary reduction agreement must be filed with the Eligible Employee's Participating Employer prior to the date required by the Participating Employer to make that agreement effective for the pay period provided for in the agreement. An Eligible Employee may cease making Deferrals by revoking his or her authorization to the Eligible Employee's Participating Employer to make such deferrals. In order for the revocation to be effective as of a date, notice of the revocation must be provided to the Participating Employer at least 15 days prior to that date, or such lesser period of days before that date as is permitted by the Participating Employer. The Eligible Employee must complete, sign and file with the Participating Employer a notice of the revocation on a form provided by the Participating Employer.

Section 3.2 Reemployment. An Eligible Employee who incurs a Termination of Employment by all Participating Employers may participate as of the first day of the first calendar month after such Termination and after the day on which such Employee again becomes an Eligible Employee.

Section 3.3 Reclassification. No judicial or administrative reclassification, or reclassification by the Employer, of an individual as a common law employee or otherwise Eligible Employee, will be applied to grant retroactive eligibility to any individual under this 403(b) Arrangement.

Section 3.4 Termination of Participation. After there shall have been distributed to or for the benefit of a Participant or such Participant's Beneficiary all amounts accumulated on the Participant's behalf under any Savings Vehicles pursuant to this 403(b) Arrangement, such person shall cease to be a Participant.

ARTICLE IV **Contributions**

Section 4.1 Deferrals. A Participant may elect to have his or her Participating Employer make Deferrals on behalf of the Participant. The election shall be consistent with rules established by the Participant's Participating Employer and the Carrier for the Savings Vehicle that is selected by the Participant to receive such Deferrals, subject to the limitations set forth in Section 4.2 and Section 4.3 below. Only Savings Vehicles permitted by Article V may be selected. Such Deferrals shall be expressed in percentage increments of a Participant's Compensation or a specified amount of compensation. The annual aggregate of Deferrals shall not be less than \$200, and will be limited as specified by the University in order to permit efficient collection and disbursement to Carriers of the Deferrals. Amounts contributed pursuant to this provision shall be forwarded to the Carrier or Carriers by the Participating Employer in the proportions selected by the Participant and shall be accounted for separately by the recipient Carrier. An election to commence Deferrals shall be effective for the remainder of the 403(b) Arrangement Year in which it is made and subsequent 403(b) Arrangement Years, subject to the Participant's right to change his or her election at such times and with such frequency as the Participating Employer and applicable Carrier allows (this is expected to be quarterly,

unless modified by the Carrier and Participating Employer). A Participant may discontinue Deferrals at any time.

Section 4.2 Limitations. Pursuant to the Code, deferrals to 403(b) arrangements are subject to the following limitations. Such limitations will be administered by the Carriers and communicated to each Participant by the Carriers. It is the responsibility of each Participant to determine whether he or she has exceeded the limitations set forth below and inform the University and appropriate Carriers if the limitations have been exceeded.

(a) No Participant shall be permitted to have “elective deferrals” made under this 403(b) Arrangement, or any other plan maintained by the Participating Employer or a Related Employer, during any taxable year (including Section 402(g)(7) of the Code), in excess of the dollar limitation contained in Section 402(g) of the Code in effective for such taxable year, except to the extent permitted under Sections 4.2(b) and (c).

(b) All Eligible Employees who have attained age fifty (50) before the close of the 403(b) Arrangement Year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Section 414(v) of the Code. Such catch-up contributions shall not be taken into account for purposes of the provisions of the 403(b) Arrangement implementing the required limitations of Section 402(g) and 415 of the Code. Also, the Plan shall not be treated as failing to satisfy the provisions of the 403(b) Arrangement implementing the requirements of Section 403(b) or 410(b) of the Code, as applicable, by reason of the making of such catch-up contributions.

(c) Because the University is a qualified organization (within the meaning of Section 1.403(b)-4(c)(3)(ii) of the Treasury Regulations), the applicable dollar amount under Sections 402(g) and 415 of the Code for any “qualified employee” is increased (to the extent provided in the applicable Funding Vehicle) by the least of:

- (1) \$3,000;
- (2) The excess of:
 - a) \$15,000 over
 - b) The total special 403(b) catch-up elective deferrals made for the qualified employee by the qualified organization for prior years; or
- (3) The excess of:
 - a) \$5,000 multiplied by the number of years of service of the employee with the qualified organization, over
 - b) The total elective deferrals made for the employee by the qualified organization for prior years.

For purposes of this subparagraph (c), a “qualified employee” means an employee who has completed at least 15 years of service taking into account only employment with the University.

(d) Excess elective deferrals shall be treated as annual additions under the 403(b) Arrangement, as described in Section 4.3, unless such amounts are distributed no later than the first April 15 following the close of the Participant's taxable year. The term "excess elective deferrals" shall mean those elective deferrals that are includable in a Participant's gross income under Section 402(g) of the Code to the extent such Participant's elective deferrals for a taxable year exceed the dollar limitation under such Code section.

(e) The term "elective deferrals" shall mean Deferrals and other deferrals made on behalf of a Participant pursuant to an election to defer under any qualified cash or deferred arrangement as described in Section 401(k) of the Code, any simplified Employee pension cash or deferred arrangement as described in Section 402(h)(1)(B) of the Code, and any Employer contributions, except Deferrals, made on the behalf of a Participant for the purchase of an annuity contract (or custodial account) under Section 403(b) pursuant to a salary reduction agreement. Elective deferrals do not include any deferrals properly distributed as excess annual additions.

(f) Contributions will be forwarded to the Savings Vehicles in accordance with the procedures established by the Administrator and as required by Department of Treasury Regulations Section 1.403(b)-8(b) as of the earliest date on which such contributions can reasonably be segregated from the employer's general assets, and not later than the 15th business day of the month following the month in which such amounts attributable to salary reduction contributions would otherwise be payable to the Participant in cash.

Section 4.3 Section 415 Limitations.

(a) Anything in this 403(b) Arrangement to the contrary notwithstanding, the total "annual additions" made on behalf of any Participant for any "limitation year" under this 403(b) Arrangement, other 403(b) arrangements and any other qualified defined contribution plan maintained by an Employer and combined or aggregated in accordance with Section 1.415-8 of the Regulations and Section 415(k)(4) of the Code, will not exceed the limits of Section 415 of the Code. Effective for limitation years beginning after December 31, 1997, earnings will include any elective deferrals (as defined in Section 4.02(g)(3) of the Code) and any amount which is contributed or deferred by an Employer at the election of the Participant and which is not includable in the gross income of the Participant by reason of Section 125 or Section 457 of the Code. For limitation years beginning on and after January 1, 2001, for purposes of the limitations described in this section, compensation paid or made available during such limitation years shall include elective amounts that are not includible in the gross income of the employee by reason of Section 132(f)(4) of the Code. In addition, for purposes of the limitations described in this section, compensation shall include payments made by the later of 2 1/2 months after severance from employment or the end of the limitation year that includes the date of severance from employment if, absent a severance from employment, such payments would have been paid to the Employee while the Employee

continued in employment with the Employer and are regular compensation for services during the Employee's regular working hours, compensation for services outside the Employee's regular working hours (such as overtime or shift differential), commissions, bonuses, or other similar compensation. The limits of Section 415 of the Code are incorporated herein by this reference.

(b) Effective for limitation years beginning after December 31, 2001, the annual addition referred to above for any limitation year shall not exceed the lesser of \$40,000, as adjusted for increases in the cost-of-living under Section 415(d) of the Code, or 100% of the Participant's compensation, as described in the prior subsection, for the limitation year. That compensation limit shall not apply to any contribution for medical benefits after separation from service (within the meaning of Section 401(h) or Section 419A(f)(2) of the Code) which is otherwise treated as an annual addition.

(c) If the annual additions exceed the limitations under Section 415 of the Code, but the Funding Vehicle otherwise satisfies Code Section 403(b), then the portion of the Funding Vehicle that includes the excess will fail to be a Section 403(b) Funding Vehicle and will instead be a contract to which Section 403(c) applies. The portion of the Funding Vehicle that includes the contribution that is not in excess of the Section 415 limitations will remain a 403(b) Funding Vehicle. For the year of the excess and each year thereafter, the issuer of the Funding Vehicle must maintain separate accounts for the portion that includes the excess and the Section 403(b) portion. If the limitations under Section 415 of the Code are exceeded because Participant is also participating in another plan required to be aggregated with this 403(b) Arrangement for the purposes of Section 415, then the rules of Section 1.415-9(c) of the Regulations shall apply. In combining and aggregating plans, the rules under Section 1.415-8(d) of the Regulations and Section 415(k)(4) of the Code shall apply.

(d) The Administrator shall monitor compliance for purposes of the Section 415 limits on contributions.

(e) For purposes of this Section 4.3:

(1) the term "limitation year" shall mean the calendar year.

(2) the term "annual additions" shall mean, for each limitation year, the sum of the contributions contributed by a Participating Employer or Related Employer to this 403(b) Arrangement or any other qualified defined contribution plan (including a 403(b) plan) and forfeitures allocated to a Participant under such plan, as described under Section 415(c)(2) of the Code and applicable Regulations.

Section 4.4 Rollover Contributions. If a Participant was previously employed by another Employer having a plan described in Section 403(b) of the Code, the applicable Carrier may accept amounts accumulated under the plan of the Participant's previous Employer, provided that such amounts are transferred directly to the Carrier of

the Participant's Savings Vehicle from the plan of the Participant's previous employer, or such amounts are treated as "rollover contributions" under Section 408(d)(3) of the Code or "eligible rollover distributions" under Section 403(b)(8) of the Code and Section 1.403(b)-2 of the Regulations. After December 31, 2001, eligible rollover distributions may also be accepted from a qualified plan described in Section 401(a) or Section 403(a) of the Code or an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. In addition, after that date, the applicable Carrier may also accept a Participant rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includible in gross income.

Section 4.5 Vesting. A Participant shall be 100% vested in the amounts contributed under the 403(b) Arrangement at the time such amounts are contributed.

Section 4.6 Leave of Absence. During a Participant's paid leave of absence, the Participant's Participating Employer shall continue to make whatever contributions the Participating Employer was making on the Participant's behalf before the Participant began the Participant's leave of absence; provided, however, that the Participating Employer shall only continue to make such contributions until such time as the Participant ceases making deferrals pursuant to a salary reduction agreement that Participant was making prior to the commencement of the Participant's leave of absence. Such deferrals and contributions shall not be made after the Participant has incurred a Termination of Employment with the Participant's Participating Employer.

ARTICLE V **Savings Vehicles**

Section 5.1 Savings Vehicles.

(a) A Participant may elect to use the Savings Vehicles of any available Carriers to receive Deferrals under this 403(b) Arrangement on behalf of the Participant. A Participant may elect to utilize one or more Savings Vehicles offered by any such Carriers. Each Participant shall complete an application form or use another method made available by the Carrier in order for one or more Savings Vehicles to be issued or utilized on behalf of the Participant under the 403(b) Arrangement. Each Participant shall indicate on such application form or by such other method which Savings Vehicle that the Participant would like to hold amounts contributed on the Participant's behalf pursuant to this 403(b) Arrangement.

(b) The University shall select the Carriers and Savings Vehicles available to Participants, and shall maintain a list of all Carriers under the Plan. Such list is hereby incorporated as part of the Plan. Those Carriers and Savings Vehicles shall be selected by the University in a manner that provides Eligible Employees with a reasonable choice of Carriers and Savings Vehicles in light of all relevant circumstances. Savings Vehicles

shall be issued for the sole purpose of providing benefits in accordance with Section 403(b) of the Code and any other laws relating thereto.

(c) The University may, at its discretion, and for the benefit of Participants and Beneficiaries, change the Carriers and Savings Vehicles available for future contributions pursuant to the 403(b) Arrangement. Participants must be notified of any alternations in the Carriers and Savings Vehicles available under the 403(b) Arrangement.

Section 5.2 Purchase. Deferrals made on behalf of a Participant shall be forwarded in accordance with applicable regulations by the Participating Employer to the Carriers whose Savings Vehicles have been issued for or utilized on behalf of the Participant.

Section 5.3 Investment. A Participant may elect to invest the amounts accumulated under a Savings Vehicle in any of the investment funds available under such Savings Vehicle. The Participant may subsequently elect to transfer all or portions of the amounts accumulated between the available investment funds, effective as of such date as is permitted pursuant to a procedure and rules established by the Carrier for that Savings Vehicle.

Section 5.4 Transfers Among Savings Vehicles.

(a) Contributions.

(1) A Participant may not change Carriers more than once per 403(b) Arrangement Year.

(2) With respect to future contributions, a Participant may change his or her Savings Vehicle selection and allocation of contributions at any time permitted by the Carrier.

(b) Account Balances. (1) For purposes of this section, a “contract exchange” takes place when a Participant exchanges one Savings Vehicle under the Plan for another Savings Vehicle under the Plan. For a Participant who has terminated employment with the University, this Plan’s transferability rules will continue to govern funds accumulated under this Plan.

(2) At any time before benefits begin, and subject to a Carrier’s rules for transfers and in accordance with the provisions of the Code for maintaining the tax deferral of the accumulation account(s), a Participant may transfer funds accumulated in such Participant’s accumulation account(s) between and among the Savings Vehicles included in the Plan, provided that the conditions in paragraphs (3) and (4) of this section 5.4(b) are satisfied. A Participant may transfer funds between two Savings Vehicles by making a properly completed

request identifying the Savings Vehicles from and to which the funds are to be transferred.

(3) The Participant must have an accumulation account balance immediately after the exchange that is at least equal to the accumulation account balance of that Participant immediately before the exchange (taking into account the accumulation account balance of that Participant under both Savings Vehicles immediately before the exchange).

(4) The Savings Vehicle with the receiving Carrier must have distribution restrictions with respect to the Participant that are not less stringent than those imposed on the Savings Vehicle being exchanged.

(5) A Participant who has a Savings Vehicle under the Plan with a vendor which is not a Carrier may transfer his accumulation account balance from that vendor to the Carrier provided that the conditions in paragraphs (3) and (4) of this section 5.4(b) are satisfied. The Carrier is responsible for verifying that the conditions have been satisfied. A Participant may not transfer his accumulation account balance to a Savings Vehicle with a vendor other than a Carrier.

Section 5.5 Plan-to-Plan Transfers. Plan-to-plan transfers to and from this Plan are not permitted.

ARTICLE VI

Benefits

Section 6.1 Distributions. Subject to the remaining provisions of this Article VI, a distribution of amounts attributable to Deferrals and the investment gains and losses of such amounts may be paid to or on behalf of a Participant subject to the distribution requirements imposed by 403(b), including but not limited to subsections (7), (10), and (11) of 403(b), 401(a)(9), and 401(a)(31), as applicable. In no event shall benefits be paid to a Participant earlier than when a Participant has a severance from employment, dies, becomes disabled or attains age 59½. A Participant initiates an application for benefits by contacting the Carrier. Benefits will be payable upon the Carrier's receipt of a satisfactorily completed application for benefits and supporting documentation (if any is required), including a waiver of spousal rights to benefits, if required. A Participant may elect as part of his or her application to receive benefits under any of the optional forms of benefit available under the application Savings Vehicles in which the Participant's contributions are invested. If any application for distribution is denied, the Participant or the Participant's Spouse or Beneficiary, may take advantage of the claims procedure offered by the Carrier. The Carrier shall monitor regular distributions for compliance with requirements of Code Section 403(b) and all other tax requirements.

Section 6.2 Required Minimum Distributions

(a) Time and Form of Distributions

- (1) **Required Beginning Date.** The Participant's entire interest shall be distributed, or begin to be distributed, to the Participant no later than the Participant's Required Beginning Date.
- (2) **Death of Participant Before Distributions Begin.** If the Participant dies before distributions begin, the Participant's entire interest shall be distributed, or begin to be distributed, no later than as follows:
 - (i) If the Participant's Surviving Spouse is the Participant's sole designated Beneficiary, then distributions to the Surviving Spouse shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died, or by December 31 of the calendar year in which the Participant would have attained age 70½, if later.
 - (ii) If the Participant's Surviving Spouse is not the Participant's sole designated beneficiary, then distributions to the designated beneficiary shall begin by December 31 of the calendar year immediately following the calendar year in which the Participant died. If a Nonspouse Beneficiary elects a Direct Rollover Distribution, the rules relating to required minimum distributions from inherited IRA's under Section 401(a)(9)(B) (without regard to Section 401(a)(9)(B)(iv)) shall apply.
 - (iii) If there is no designated Beneficiary as of September 30 of the year following the year of the Participant's death, the Participant's entire interest shall be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (iv) If the Participant's Surviving Spouse is the Participant's sole designated Beneficiary and the Surviving Spouse dies after the Participant but before distributions to the Surviving Spouse begin, this subsection 6.2(a)(2), other than subsection 6.2(a)(2)(i), will apply as if the Surviving Spouse were the Participant.

For purposes of subsections 6.2(a)(2) and 6.2(c), unless subsection 6.2(a)(2)(iv) applies, distributions are considered to begin on the Participant's Required Beginning Date. If subsection 6.2(a)(2)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the Surviving Spouse under subsection 6.2(a)(2)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Participant before the Participant's Required

Beginning Date (or to the Participant's Surviving Spouse before the date distributions are required to begin to the Surviving Spouse under subsection 6.2(a)(2)(i)), the date distributions are considered to begin is the date distributions actually commence.

- (3) ***Forms of Distribution.*** Unless the Participant's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions shall be made in accordance with subsections 6.2(b) and 6.2(c) of this Section. If the Participant's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code Section 401(a)(9) and the Treasury Regulations.
- (b) ***Required Minimum Distributions During Participant's Lifetime.***
 - (1) ***Amount of Required Minimum Distribution for Each Distribution Calendar Year.*** During the Participant's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:
 - (i) the quotient obtained by dividing the Participant's account balance by the distribution period in the Uniform Lifetime Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Participant's age as of the Participant's birthday in the distribution calendar year; or
 - (ii) if the Participant's sole designated Beneficiary for the distribution calendar year is the Participant's Spouse, the quotient obtained by dividing the Participant's account balance by the number in the Joint and Last Survivor Table set forth in Treasury Regulation Section 1.401(a)(9)-9, using the Participant's and Spouse's attained ages as of the Participant's and Spouse's birthdays in the distribution calendar year.
 - (2) ***Lifetime Required Minimum Distribution Through Year of Participant's Death.*** Required minimum distributions will be determined under this subsection 6.2(b) beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Participant's date of death.
 - (c) ***Required Minimum Distributions After Participant's Death.***
 - (1) ***Death On or After Date Distributions Begin.***
 - (i) ***Participant Survived by Designated Beneficiary.*** If the Participant dies on or after the date distributions begin and there is

a designated beneficiary, the minimum amount that will be distributed for each distribution calendar year after year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the longer of the remaining life expectancy of the Participant or the remaining life expectancy of the Participant's designated beneficiary, determined as follows:

- (A) The Participant's remaining life expectancy is calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
 - (B) If the Participant's Surviving Spouse is the Participant's sole designated beneficiary, the remaining life expectancy of the Surviving Spouse is calculated for each distribution calendar year after the year of the Participant's death using the Surviving Spouse's age as of the Spouse's birthday in that year. For distribution calendar years after the year of the Surviving Spouse's death, the remaining life expectancy of the Surviving Spouse is calculated using the age of the Surviving Spouse as of the Spouse's birthday in the calendar year of the Spouse's death, reduced by one for each subsequent calendar year.
 - (C) If the Participant's Surviving Spouse is not the Participant's sole designated beneficiary, the designated beneficiary's remaining life expectancy is calculated using the age of the beneficiary in the year following the year of the Participant's death, reduced by one for each subsequent year.
- (ii) ***No Designated Beneficiary.*** If the Participant dies on or after the date distributions begin and there is no designated beneficiary as of September 30 of the year after the year of the Participant's death, the minimum amount that shall be distributed for each distribution calendar year after the year of the Participant's death is the quotient obtained by dividing the Participant's account balance by the Participant's remaining life expectancy calculated using the age of the Participant in the year of death, reduced by one for each subsequent year.
- (2) ***Death Before Date Distributions Begin.***
- (i) ***Participant Survived by Designated Beneficiary.*** If the Participant dies before the date distributions begin and there is a designated beneficiary, the minimum amount that shall be distributed for each distribution calendar year after the year of the

Participant's death is the quotient obtained by dividing the Participant's account balance by the remaining life expectancy of the Participant's designated beneficiary, determined as provided in subsection 6.2(c)(1).

- (ii) ***No Designated Beneficiary.*** If the Participant dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Participant's death, distribution of the Participant's entire interest shall be completed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.
 - (iii) ***Death of Surviving Spouse Before Distributions to Surviving Spouse are Required to Begin.*** If the Participant dies before the date distributions begin, the Participant's Surviving Spouse is the Participant's sole designated beneficiary, and the Surviving Spouse dies before distributions are required to begin to the Surviving Spouse under subsection 6.2(a)(2)(i), this subsection 6.2(c)(2) shall apply as if the Surviving Spouse were the Participant.
- (d) ***Definitions.***
- (1) ***Designated Beneficiary.*** The individual who is designated as the Beneficiary under the Plan and is the designated Beneficiary under Code Section 401(a)(9) and Treasury Regulation Section 1.401(a)(9)-1, Q&A-4.
 - (2) ***Distribution calendar year.*** A calendar year for which a minimum distribution is required. For distributions beginning before the Participant's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Participant's Required Beginning Date. For distributions beginning after the Participant's death, the first distribution calendar year is the calendar year in which distributions are required to begin under subsection 6.2(a)(2). The required minimum distribution for the Participant's first distribution calendar year shall be made on or before the Participant's Required Beginning Date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Participant's Required Beginning Date occurs, will be made on or before December 31 of that distribution calendar year.
 - (3) ***Life Expectancy.*** Life expectancy as computed by use of the Single Life Table in Treasury Regulation Section 1.401(a)(9)-9.
 - (4) ***Participant's Account Balance.*** The Participant's account balance as of the last valuation date in the calendar year immediately preceding the

distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Participant's account balance as of dates in the valuation calendar year after the valuation date and decreased by distributions made in the valuation calendar year after the valuation date. The Participant's account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

- (5) ***Required Beginning Date.*** The Required Beginning Date of a Participant is April 1 following the calendar year in which the Participant attains age 70½ or if later, April 1 following the calendar year in which the Participant retires.

Section 6.3 Hardship Distributions. Hardship distributions from this Plan are not permitted.

Section 6.4 Death Benefit. If a Participant dies, the Participant's Beneficiary as determined pursuant to the terms of the Participant's Savings Vehicle shall be entitled to the amounts accumulated under that Savings Vehicle.

Section 6.5 Direct Rollovers.

(a) Effective January 1, 1993, and notwithstanding any provision of the 403(b) Arrangement to the contrary that would otherwise limit a distributee's election under this section, pursuant to Section 1.403(b)-2 of the Regulations, a "distributee" may elect, at the time and in the manner prescribed by the Carrier for the Participant's Savings Vehicles, to have any portion of an "eligible rollover distribution" paid directly to an "eligible retirement plan" specified by the distributee in a "direct rollover". Those direct rollover rights apply to distributions described in Section 6.1 if they are so described in this section.

(b) For purposes of implementing the requirements of this section, the terms referenced above shall be defined as follows:

(1) **Eligible rollover distribution:** An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten years or more; any distribution to the extent such distribution is required under Section 401(a)(9) of the Code; the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to

employer securities); and any other exception permitted by law or the Internal Revenue Service.

(2) **Eligible retirement plan:** An eligible retirement plan is another Section 403(b) annuity or an individual retirement account described in Section 408(a) of the Code, or an individual retirement annuity (other than an endowment contract) described in Section 408(b) of the Code that accepts the distributee's eligible rollover distribution. With respect to distributions after December 31, 2001, an eligible retirement plan is also an annuity plan described in Section 403(a) of the Code, a qualified trust described in Section 401(a) of the Code, or an eligible plan under Section 457(b) of the Code which is maintained by a state, political subdivision of a state that accepts the distributee's eligible rollover distribution. Also, with respect to distributions after December 31, 2001, this definition of eligible retirement plan also applies in the case of a distribution to a Surviving Spouse, or to a Spouse or former Spouse who is the Alternate Payee under a Qualified Domestic Relations Order. For any Nonspouse Beneficiary, an "eligible retirement plan" shall only include (i) an individual retirement account described in 408(a) of the Code, and (ii) an individual retirement annuity described in Section 408(b) of the Code (other than an endowment contract).

(3) **Distributee:** A distributee includes an Employee or former Employee, an Employee's or former Employee's Surviving Spouse, the Employee's or former Employee's Spouse or former Spouse who is the alternate payee under a Qualified Domestic Relations Order, as defined in Section 414(p) of the Code, and a Nonspouse Beneficiary.

(4) **Direct rollover.** A direct rollover is a payment by the applicable Carrier to the eligible retirement plan specified by the distributee.

Section 6.6 Participant Loans. Loans from this Plan are not permitted.

Section 6.7 Qualified Domestic Relations Orders. Notwithstanding any other provisions of this article, Carriers shall arrange for benefits and payments of benefits under each Participant's Savings Vehicles to be altered to conform to a Qualified Domestic Relations Order. If the Qualified Domestic Relations Order so provides, distributions may be made in accordance with the terms of the Order at any time prior to the Participant's retirement or separation from service.

Section 6.8 USERRA and Section 414(u) of the Code. Notwithstanding any provision of this 403(b) Arrangement to the contrary, effective December 12, 1994, contributions, benefits and service credit with respect to qualified military service will be provided in accordance with Code section 414(u).

ARTICLE VII
Administration

Section 7.1 Carrier. A Carrier shall be responsible for the administration of the Carrier's Savings Vehicle pursuant to the terms of that Savings Vehicle.

Section 7.2 Participating Employers. The University and other Participating Employers shall maintain the 403(b) Arrangement subject to the following restrictions:

- (a) Participant by Eligible Employees is completely voluntary;
- (b) Except for Deferrals, Participating Employers will make no other contributions to the 403(b) Arrangement.
- (c) The Participating Employer's sole involvement with the 403(b) Arrangement is limited to:
 - (1) permitting annuity contractors, including agents or brokers offering investment products within the meaning of 403(b)(7) to publicize their products to Employees (subject to any limits established pursuant to Section 5.1(b) of this 403(b) Arrangement);
 - (2) requesting information concerning proposed funding media, products or annuity contractors;
 - (3) summarizing or otherwise compiling the information provided with respect to the proposed funding media or products which are made available, or the annuity contractors whose services are provided, in order to facilitate review and analysis by Employees;
 - (4) collecting annuity or custodial account considerations as required by salary reduction agreements, remitting such considerations to annuity contractors and maintaining records of such considerations;
 - (5) holding in the Participating Employer's name one or more group annuity contracts covering its participating Eligible Employees; and

A Participating Employer is not required by this Subsection (c) to do any of the items listed in this Subsection (c).

(d) All rights under the 403(b) Arrangement are enforceable solely by the Participant or Beneficiary of such Participant, or any authorized representative of such Participant or Beneficiary.

ARTICLE VIII
Claims Procedure

Section 8.1 Claims.

(a) Benefit Claims. Requests for information, and claims concerning participation, investments, distributions, benefit forms or other aspects of the operation of the Savings Vehicle of a Carrier should be directed to the Carrier.

(b) Eligibility and Contribution Claims. Requests for information and claims concerning eligibility and contributions should be in writing and directed to the Participating Employer. The Participating Employer will use the claims procedure available for the University of St. Thomas Retirement Plan and use of such procedure shall not be construed as evidence that this 403(b) Arrangement is governed by ERISA.

ARTICLE IX
Amendment and Termination

Section 9.1 Right to Amend. The University's Board of Trustees reserves the right to amend, alter, or wholly revise this document, prospectively or retrospectively, at any time. Such right may also be exercised by the President of the Sponsoring Employer, except that such President cannot determine to provide for contributions under the 403(b) Arrangement by any Employer and cannot amend this section. An amendment shall be stated in an instrument in writing signed by a person authorized by whichever of those two groups exercises that right and shall be effective as of the date specified in the instrument, and all parties interested herein shall be bound thereby. No such amendment may be made, however, that would reduce the amounts accumulated under the Savings Vehicles established or issued under the 403(b) Arrangement with respect to any Participant or Beneficiary at the time of the amendment.

Section 9.2 Termination of Participation.

(a) The University's Board of Trustees also reserves the power to terminate its involvement in the 403(b) Arrangement as to the University and any or all other Participating Employers and as to any designated group of Employees, former Employees or Beneficiaries. If there are any Participating Employers other than the University, the University shall deliver to each other Participating Employer a written notice of termination specifying the effective date thereof (which shall not be less than thirty (30) days after the notice date) and executed in the manner provided for the execution of an amendment by the University.

(b) Any Participating Employer (other than the University) may withdraw from participation in the 403(b) Arrangement at any time by giving the University thirty (30) days written notice, except, however, that such thirty (30) day notice period may be waived by the University. Such withdrawal or termination shall be deemed a termination

of the 403(b) Arrangement is continued under an agreement other than this 403(b) Arrangement by the Participating Employer.

Section 9.3 Effect of Amendment or Termination. Any amendment or termination of the 403(b) Arrangement shall not operate to deprive any Participant or Beneficiary of the amounts accumulated under the Savings Vehicles established or issued under the 403(b) Arrangement.

ARTICLE X **Miscellaneous**

Section 10.1 Delegation of Authority. Whenever the Sponsoring Employer, under the terms of the Plan, is permitted or required to do or perform any act or matter or thing, and the applicable term of the Plan does not specify a person or group that is to act for the Sponsoring Employer, it shall be done and performed by the Board of Trustees or the President of the Sponsoring Employer or the delegate of such Board or President.

Section 10.2 Non-Alienation.

(a) To the extent permitted by law and provided in a Savings Vehicle, the benefits, payments, proceeds of any allocated or unallocated amounts accumulated under that Savings Vehicle will not be subject to execution, attachment, garnishment or other legal or judicial process whatsoever by any person, whether a creditor or otherwise. Except as provided in Subsection (b) below, a Savings Vehicle should provide that no Participant or Beneficiary will have any right to alienate, encumber or assign any of the payments of proceeds or any other interest arising out of or created by the Savings Vehicle. Savings Vehicles may recognize that a court may order distribution of all or a portion of amounts accumulated under a Participant's retirement annuity contract or other Savings Vehicle to commence or be made prior to the date the Participant incurs a Termination of Service.

(b) The restrictions contained in a Savings Vehicle as referred to in Subsection (a) should not apply to any Domestic Relations Order which is determined to be a Qualified Domestic Relations Order, or any other Domestic Relations Order permitted to be treated as a Qualified Domestic Relations Order in accordance with Section 206(d)(3) of ERISA. Each Carrier shall be responsible for determining the qualified status of a Domestic Relations Orders applicable to one of its Savings Vehicles and to administer distributions under such qualified orders.

Section 10.3 Negation of Employment Rights. This 403(b) Arrangement is purely voluntary on the part of the Participating Employers and Participants. Neither the establishment of the 403(b) Arrangement nor any changes herein shall be construed as giving any Employee, Participant, Beneficiary or any other person any legal or equitable right against the Participating Employers, unless the same shall be specifically provided for herein, or as giving any Employee the right to be retained in employment. All

Employees shall remain subject to discharge from employment to the same extent as if the 403(b) Arrangement had never been established.

Section 10.4 Governing Laws. This 403(b) Arrangement shall be construed and enforced according to the laws of the United States of America and, to the extent not preempted by such laws, the laws of the State of Minnesota. Each provision hereof shall be treated as separable, so that if any one or more provisions shall be adjudged or declared illegal, invalid or unenforceable, this 403(b) Arrangement shall be interpreted, and shall remain in full force and effect, as though such provision or provisions had never been contained herein.

Section 10.5 Incorporation of Savings Vehicles. The Plan, together with the individual Savings Vehicles, is intended to satisfy the requirements of Section 403(b) of the Code and the Treasury Regulations thereunder. Terms and conditions of the Savings Vehicles are hereby incorporated by reference into the Plan, excluding those terms that are inconsistent with the Plan or Section 403(b) of the Code.

IN WITNESS WHEREOF, the University of St. Thomas has caused its name to be hereto subscribed by _____, its _____.

UNIVERSITY OF ST. THOMAS

By: _____

Its: _____

STATE MINNESOTA)

)ss.

COUNTY OF _____)

On this ____ day of _____, 2008, before me personally appeared _____, to me personally known, who being first duly sworn, did depose and say that s/he is the _____ of University of St. Thomas, the entity named in the foregoing instrument, and that said instrument was signed on behalf of said entity by authority of its Board of Trustees and s/he acknowledged said instrument to be the free act and deed of said entity.

Notary Public