

**PENSION PLAN**  
**FOR THE EMPLOYEES**  
**OF**  
**ST. THOMAS UNIVERSITY**

**Revised:** January 2000

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## SECTION I

### Definitions

1.1 The following words and phrases, wherever used in this Plan, shall have the following meaning:

- (a) "Act" means the Pension Benefits Act of New Brunswick as it existed on January 1, 1990, and, by extension, the Regulations made under this Act, or the corresponding legislation of other provinces that may be applicable to employees in those provinces.
- (b) "Actuary" means a person qualified as a Fellow of the Canadian Institute of Actuaries, or a firm employing such a person, appointed as Actuary to the Plan by the University.
- (c) "Continuous Service" means continuous employment by the University on a regular basis and employment shall be continuous, notwithstanding:
  - (i) leave of absence or furlough granted in writing by the University, or lay off, not in excess of 24 months;
  - (ii) sabbatical leave, sick leave, or parenting leave granted by the University;
  - (iii) absence for any period during which full regular compensation is received;
  - (iv) service in the armed forces of Her Majesty or Her Allies, excluding periods of enlistment in peace time, provided employment with the University is resumed within 90 days of termination of said service or within such longer period as may be provided by law for protection of employment rights following military service.

Continuous Service shall also include such other designated periods as the University shall recognize for purposes specifically related to any one or more provisions of the Plan, so long as benefits do not accrue for such service under another pension plan.

- (d) "Earnings" means actual earnings including vacation pay, but not including overtime or any taxable benefits, all as determined by the University.
- (e) "Employee" for purposes of this Plan means a full-time employee of the University.
- (f) "Faculty Employee" means an Employee who is a member of the faculty, or is a member of the senior administrative staff who is employed by the University on a full-time basis, as determined by the University.
- (g) "Fund" means the principal and all earnings, appreciations, or additions thereto of the pension fund instituted in accordance with the Fund Agreement, and held by the Fund Holder, into which all contributions will be placed and from which all benefits shall be paid. The fiscal year of the Fund shall be the Plan Year.
- (h) "Fund Agreement" means the agreement made between the University and the Fund Holder instituting and determining the administration of the Fund.
- (i) "Fund Holder" means a corporate trust company, a life insurance company, or such individual trustees as are designated in the Fund Agreement made between the University and the Fund Holder.
- (j) "Member" means an Employee or Part-Time Employee who is enrolled as a Member of the Plan.
- (k) "Other Employee" means a full-time Employee who is not a Faculty Employee.

- (l) "Other Part-Time Employee" means a Part-Time Employee who is not a Part-Time Faculty Employee.
- (m) "Part-Time Employee" means an employee who does not otherwise meet the definition of Employee.
- (n) "Part-Time Faculty Employee" means a Part-Time Employee who is a member of the Faculty.
- (o) "Plan" means this Pension Plan for Employees of St. Thomas University and any amendments or supplements thereto.
- (p) "Plan Year" means the 12 months ending June 30.
- (q) "Prior Plan" means either the Retirement Plan for St. Thomas University, underwritten by Teachers' Insurance and Annuity Association/College Retirement Equities Fund, or the St. Thomas University Support Staff Pension Plan, underwritten by Metropolitan Life.
- (r) "Spouse" means either of a man and woman who
  - (i) are married to each other, or
  - (ii) are married to each other by a marriage that is voidable and has not been avoided by a declaration of nullity,
  - (iii) have gone through a form of marriage with each other in good faith that is void and have cohabited within the preceding year, or
  - (iv) not being married to each other, have cohabited

- (a) continuously for a period of not less than three years in a conjugal relationship in which one person has been substantially dependent upon the other for support, or
  - (b) in a relationship of some permanence where there is a child born of whom they are the natural parents,  
  
and have cohabited within the preceding year.
- (s) "Termination of Service" means interruption of Continuous Service otherwise than by retirement or death.
- (t) "University" shall mean St. Thomas University.
- (u) "Income Tax Act" means the Income Tax Act, Statutes of Canada, and the Regulations thereunder, as amended or replaced from time to time, and where applicable includes the provisions of Information Circular 72-13R8 issued by the Department of National Revenue.

1.2 Unless the context otherwise requires:

- (a) words which could designate either the masculine or feminine gender shall be construed as designating both;
- (b) words designating the masculine gender shall also be construed as designating the feminine gender; and
- (c) words designating the plural number shall also be construed as designating the singular number and vice versa.

## SECTION II

### Effective Date

2.1 The Effective Date of the Plan is January 1, 1990.

2.2 The Plan replaces and supersedes the Prior Plans.

### SECTION III

#### Eligibility

- 3.1 Every Employee shall join the Plan immediately on the Effective Date.
- 3.2 Every Employee who is employed by the University after the Effective Date shall join the Plan on the first day of the month coincident with or next following the date of employment.
- 3.3 Every Part-Time Faculty Employee who is (a) employed by the University under a Schedule B contract, or (b) employed by the University as an “established part-time instructor” under a Schedule A contract shall join the Plan on the first day of the month coincident with or next following the date of such employment.
- 3.4 An Employee or Part-Time Employee will enrol as a Member by completing such forms as may be specified by the University.
- 3.5 The University will provide each Employee with a written explanation of:
  - (a) the terms and conditions of the Plan and amendments thereto which are applicable to him or her;

- (b) the rights and duties of the Member with respect to the benefits available in accordance with the terms of the Plan, and
- (c) any other information required in accordance with the Act.

3.6 The establishment of the Plan shall not be construed as conferring any legal rights upon any Employee or Part-Time Employee or other person for a continuation of employment nor shall it interfere with the rights of the University to discharge any Employee or Part-Time Employee and to treat the Employee without regard to the effect which such treatment might have upon him or her as a Member of the Plan.

3.7 No Member may withdraw from or cease contributing to the Plan while still employed by the University.

3.8 For all purposes of the Plan, a Member whose service is terminated and who later re-enters the service of the University will thereafter be treated as a new employee.

## SECTION IV

### Contributions

- 4.1 Each member who receives an annual salary less than \$40,000 shall, by payroll deduction, contribute to the Fund each year the amount equal to 5% of Earnings. Each member who received an annual salary in excess of \$40,000 shall, by payroll deduction, contribute to the Fund each year the amount equal to 6% of Earnings. Such contributions shall hereinafter be referred to as Required Contributions, and are to be paid to the Fund within 15 days following the month of payroll deduction.
- 4.2 The University shall contribute to the Fund each year the amount equal to 6% of the Earnings of each Member. University contributions will be in monthly instalments, with each instalment being paid to the Fund within 30 days following the month for which it is payable.
- 4.3 Each Member may also make voluntary additional contributions to the Fund for current service up to the maximum amount deductible for income tax purposes as it may be from time to time, in such manner as the Income Tax Act may prescribe.
- 4.4 A Member on sabbatical leave, sick leave, parenting leave, or any form of leave with full regular compensation shall continue to make the contributions specified in subsection 4.1 above

based on the compensation actually received had such leave not been taken. The University shall make the contributions specified in subsection 4.2 above.

- 4.5 A Member on leave of absence without pay may, with the consent of the University, elect to make the contributions specified in subsection 4.1 above. In this event the University shall make the contributions specified in subsection 4.2 also. Such contributions shall be based on the annual rate of Earnings that would have been received had such leave not been taken. Such election must be made prior to the commencement of such leave.

The consent of the University shall be given on the basis that takes into account the situation of the leave of absence and shall take into account the specifics of any collective agreement that may cover the Member. The Member shall negotiate whether the University shall give consent for this subsection at the same time as approval for the leave of absence is negotiated.

Notwithstanding the above, such consent shall not be withheld unreasonably or in a discriminatory manner. If the Member fails to negotiate the consent of the University, then consent will be deemed to have been denied.

- 4.6 For any Member in receipt of long term disability benefits under a Plan arranged by the University, the University shall contribute 11% of the benefits being received by the Member for Members who receive an annual salary of less than \$40,000; and 12% of the benefits being received by the Member for Members who receive an annual salary in excess of \$40,000.

- 4.7 A Member who was a Member of one of the Prior Plans may elect to transfer the amounts to his or her credit under such plans to this Plan. Such transfer shall be split into amounts arising from the Member's contributions and the amount arising from the University's contributions to such Plan. The amount arising from the Member's contributions shall be considered as Required Contributions.
- 4.8 Subject to such conditions as the tax authorities may require, an employee entitled to any lump sum cash amount from any registered pension plan of a previous employer may, by arrangement with the University, have all or part of such amount transferred to this pension.
- 4.9 Notwithstanding any other subsection of this Section IV, no contributions shall be made by a Member or by the University that are in excess of the amounts that are eligible contributions under the Income Tax Act and Regulations in order to maintain registration of the Plan under the Income Tax Act.
- 4.10 An amount contributed by a Member or the University under this section 4 may be refunded at any time to the Member or University as applicable where such action is required to avoid the revocation of registration of the Plan under the Income Tax Act, subject to the approval of the Superintendent of Pensions of New Brunswick.

4.11 In no event shall the contributions made in a Plan Year under this section 4 result in a pension adjustment (as defined under the Income Tax Act) in excess of the limits prescribed by the Income Tax Act.

## SECTION V

### Members' Accounts

- 5.1 Three Accounts, hereinafter referred to as Account A, Account B, and Account C, shall be established for each Member. Account A shall be credited with the Member's Required Contributions, as determined according to subsections 4.1, 4.4, 4.5, and 4.7; Account B shall be credited with the University's contributions, as determined according to subsections 4.2, 4.4, 4.5, 4.6, and 4.7; and Account C shall be credited with any voluntary contributions made pursuant to subsection 4.3 and lump sum amounts contributed according to the provisions of subsection 4.8.
- 5.2 All contributions allocated to a Member's Accounts shall be used to purchase units in the pooled fund listed in Part I of Schedule A. Each Member shall be credited with the number of units purchased on his or her behalf.
- 5.3 At any time a Member may, by notice given in writing to the University, direct that contributions may be made to any of the pooled funds listed in Part II of Schedule A.
- 5.4 At any time a Member may, by notice given in writing to the fund holder, elect to transfer any of amounts in any of the pooled funds listed in Schedule A to any other such funds.

- 5.5 The Fund Holder shall determine the value of each unit in the pooled fund at least monthly. The value of the Member's Accounts shall be the product of the number of units held by the Accounts in the pooled fund multiplied by the value of the unit established by the Fund Holder. If an Account is allocated among more than one pooled fund, the Account Value is the sum of the preceding calculation for each fund.
- 5.6 Any expenses of the Plan, including those incurred by any outside administrator, actuary, accountant, investment counsellor, or trustee that are not paid directly by the University shall be paid from the Fund. Such expenses may either be charged against the investment income before it is allocated to the accounts of the Members, or directly to the member's Account B.

## SECTION VI

### Retirement Date

- 6.1 Each member will normally retire on the first day of July coincident with, or next following, his sixty-fifth birthday, such day being hereinafter referred to as the Normal Retirement Date.
- 6.2 A Member who continues to be employed beyond the Normal Retirement Date, and who is not receiving a pension from the Plan, may continue to contribute to the Plan pursuant to subsection 4.1 up to the date of retirement. In such event the University shall continue to make the contributions required under subsection 4.2. Notwithstanding the above, all Members must start receiving pension income by the end of the year the Member reaches 69 years of age.
- 6.3 A Member may elect to retire on the first day of any July providing the Member gives the University at least nine months notice for Faculty Members and three months notice for Other Members.
- 6.4 A Member who is within ten years of the Normal Retirement Date may elect to retire on the first day of any month within the ten years before the Normal Retirement Date.

## SECTION VII

### Retirement Benefits

- 7.1 Each Member who retires under any of the provisions of Section VI shall be credited with the Value of his Accounts. The amount of such Accounts shall be used to purchase any annuity for the Member from a company licensed to do an annuities business in the Province of New Brunswick. The pension benefit derived from such annuity may not take the Member's gender into account with respect to contributions made after such date as may be specified under the Act. With respect to transfers under subsections 4.7 or 4.8 that part of the pension benefit derived from amounts transferred arising from contributions originally made after such date may not take gender into account.
- 7.2 Instead of the pension benefit provided in subsection 7.1, the Member who has not yet reached the Normal Retirement Date may elect to transfer the Value of Accounts to a retirement savings arrangement, as prescribed by the Act, and subject to the provisions of the Income Tax Act.
- 7.3 The University, on the instruction of the Member, shall purchase the annuity referred to in subsection 7.1 from the company chosen by the Member. If no such instruction is received the University shall, in its sole discretion, choose the company from which the annuity is purchased. In neither event shall the University be liable for any damages if it is established that a more advantageous purchase rate were available.

- 7.4 Normally the first instalment of the annual pension will be payable on the first day of the month coincident with or immediately following the date of retirement of the Member and the last instalment on the first day of the month coincident with or immediately preceding the date of death, subject to the provisions of subsections 7.5 and 7.6.
- 7.5 A Member may, by an election in writing submitted to the University at any time up to three months before the actual retirement date, elect to have the pension payable in one of the following forms:
- (a) payable throughout life, and ceasing on death; or
  - (b) payable throughout his life but guaranteed to be payable for a minimum period of either:
    - (i) 60 months;
    - (ii) 120 months;
    - (iii) 180 months; or
  - (c) a pension payable throughout life, and continuing in whole or in part throughout the lifetime of a contingent annuitant designated in the election; or
  - (d) any other form of annuity available and permitted under the administrative rules of Revenue Canada.
- 7.6 The election of any option under subsection 7.5 may be revoked by the Member at any time prior to three months before the actual retirement date.

- 7.7 Notwithstanding subsection 7.5 or 7.6, should a Member have a Spouse at the date of retirement, the Member must make an election according to the terms of subsection 7.5(c), and the contingent annuitant must be the Spouse. The form of pension elected must provide that at least 60% of the pension initially payable continues to the Spouse after the Member's death. Notwithstanding the above, the Member and Spouse together may waive the requirement to make the election provided for in this subsection, or the Spouse may consent to the Member's electing another optional form of pension. Such election or consent shall be given in a manner conforming to the requirements of the Act. If the Act be not in force, the University shall follow the requirements of the Nova Scotia Pension Benefits Act.
- 7.8 Should a Member without a Spouse not make an election under subsection 7.5, it will be deemed that the election described in subsection 7.5(b)(ii) was made.
- 7.9 Should a contingent annuitant designated by the Member die before the pension commences, the election of an option under subsection 7.5(c) shall be deemed null and void.
- 7.10 Any person entitled to continue receiving monthly instalments after the death of the Member under the provisions of subsection 7.5(b) may, unless specifically prohibited in writing by the Member, elect to receive in a lump sum the commuted value of such instalments.

## **SECTION VIII**

### **Death Benefits**

- 8.1 Upon the death of a Member or former Member prior to the commencement of any pension payable to him from the Plan the Value of Accounts A, B and C shall be made to the Member's Spouse if there be one, and otherwise to the beneficiary or estate.
- 8.2 Should a Member die after the pension has commenced, benefits shall be paid in accordance with the election made under subsection 7.5.
- 8.3 By an election in writing submitted to the University and
- (a) made by the Member during his or her lifetime, or
  - (b) in default of such election by the Member, made after death by the beneficiary or executors, administrators, or other legal representatives,
- settlement of any payment under subsection 8.1 may be made
- (i) to the beneficiary or estate in a lump sum; or
  - (ii) to the beneficiary, if the Spouse, as an immediate life annuity, with or without a guaranteed period, provided such guaranteed period does not exceed the limit set by the Department of National Revenue as it may be from time to time;
- provided that any election of an option under (ii) above by the Member's executors, administrators, or other legal representatives shall be made with the written concurrence of the beneficiary entitled to receive the proceeds of the settlement.
- 8.4 A Member may, by written notice to the University during his or her lifetime, designate a beneficiary to receive any benefits payable after death, except benefits payable under

subsection 8.3(ii) if such beneficiary is not the Member's Spouse at the date of death, and may, by written notice to the University, alter or revoke such designation from time to time, subject always to the provisions of any law governing designation of beneficiaries which may apply. Should such designation be legally valid, such benefits shall be paid to the said beneficiary. If the University has any reason to believe that the designation may not be valid, or that another individual has some claim on the proceedings, the University may, in its discretion, authorize such payments to be made to the estate of the Member. No nomination of beneficiary will be in force until acknowledged by the University in writing.

## SECTION IX

### Benefits on Termination of Service

9.1 Upon Termination of Service, a Member shall receive from the Normal Retirement Date the pension provided for in Section VII, using the value of Accounts A, B, and C as of the Normal Retirement Date.

9.2 Upon Termination of Service of a Member who made contributions pursuant to subsection 4.3 or 4.7, the following alternative benefits to those in subsection 9.1 are payable:

- (a) Any amount contributed to Account C pursuant to subsection 4.3 may be refunded.
- (b) If any amount transferred into Account C was not considered "locked-in" according to the terms of the Act, then the amount transferred may be refunded.

Any amounts refunded pursuant to the subsection indicated include investment earnings thereon.

If any refunds are made pursuant to this subsection, then the pension provided in subsection 9.1 is correspondingly reduced.

9.3 A deferred pension payable under subsection 9.1 is incapable of surrender, commutation, assignment, or alienation except as specifically provided in the Plan.

9.4 Where a Member is entitled to a deferred pension under subsection 9.1, the Member shall be entitled to transfer to any of the following:

- (1) a retirement savings arrangement, as prescribed by the Act;
- (2) the pension plan of a subsequent employer, if allowed under the provisions of that plan;  
or
- (3) a deferred annuity, purchased from a life insurance company, and payable no sooner than age 55.

at any time prior to the Normal Retirement Date the Value of Accounts A, B, and C.

## SECTION X

### Payment of Benefits

- 10.1 Normally, a Member, the surviving Spouse, or the contingent annuitant, as the case may be, will receive the annual pension in 12 equal monthly instalments.
- 10.2 At the discretion of the University, if a Member who has terminated service with the University and has attained the Normal Retirement Date, or is within ten years before the Normal Retirement Date, has an annual pension benefit which is less than 2% of the Year's Maximum Pensionable Earnings as defined in the Canada Pension Plan, the amount in the Member's Accounts may be paid in full discharge of all liability in respect of such benefit.
- 10.3 If the University receives evidence satisfactory to it that a person entitled to receive any benefit hereunder is physically or mentally incompetent to receive such a benefit and to give a valid release therefore, or is a minor, and that another person or an institution is then maintaining or has custody of such person and that no tutor, curator, guardian, committee, or other representative of such person has been duly and legally appointed, the University may authorize payment of such benefit to such other person or institution, and the release of such other person or institution shall be a valid and complete discharge for the payment of such benefit.

10.4 Before becoming entitled to any pension benefits under this Plan, the Member or other recipient thereof shall furnish the University with such information, including but not limited to proof of age, relating to the Member and any contingent annuitant, as it shall require.

10.5 None of the pension benefits provided for herein are capable of commutation except to the extent specified in subsections 9.3 and 10.2, nor shall they be subject to claim of, or to execution, attachment, garnishment, or other legal or equitable process, by any creditor of a Member or any other recipient of benefits except as may be specifically allowed under the Act or the Income Tax Act. No member or other recipient of benefits under this Plan shall have any right whatsoever to alienate, encumber, assign, or anticipate any of the benefits herein provided or any interest arising out of or created by this Plan.

10.6 Notwithstanding subsection 10.5, where a Member or former Member is entitled to a pension benefit and

- (a) a court makes an order to divide marital property under the Marital Property Act or similar legislation of another jurisdiction, or
- (b) a marriage contract or separation agreement provided for the division of pension benefits on marital breakdown.

the Plan will pay such benefits as are allowed under the Act and as may be granted by a court pursuant to an application by the Spouse or required under the marriage contract or separation agreement for a division of the pension benefit earned during marriage to the Member or former

Member. In no case, however, will the Spouse be entitled to more than 50% of the pension benefit accrued during the marriage.

## SECTION XI

### Administration of the Plan

- 11.1 A pension fund shall be established and maintained in accordance with the provisions of the Fund Agreement. All contributions of Members and of the University shall be paid into the Fund. The Fund shall be invested in accordance with the Act.
- 11.2 All contributions and benefit payments shall be expressed and made in Canadian currency.
- 11.3 The University shall administer the Plan, and shall have the powers necessary to enable it to carry out properly its duties, including, but not limited to the power,
- (a) to authorize all disbursements made by the Fund Holder;
  - (b) to insure or re-insure any benefit;
  - (c) to determine matters of fact and policy and questions involving the interpretation of the Plan.
- 11.4 Any designation or election in writing to the University should only be considered to be in force after due confirmation in writing from the University.

- 11.5 The University shall have no liability to make any payments to the Fund except as expressly provided in the Plan. Each Employee agrees, and may be required in writing to agree, as a condition precedent to enrolling in the Plan, for himself and for his or her heirs, executors, administrators, and legal representatives to be bound by all terms and conditions of the Plan and expressly to release the University and any other officer thereof from any and all liability for any loss or damage whatsoever arising in connection with the administration and management of the Plan and the Fund, except that arising from their wilful misconduct.
- 11.6 All expenses of administering the Plan may be paid from the Fund, on the instruction of the University, in accordance with subsection 5.6.
- 11.7 The Members of the Plan may, by a majority vote, form an advisory committee
- (a) to monitor the administration of the pension plan,
  - (b) to make recommendations to the administrator respecting the administration of the pension plan, and
  - (c) to promote awareness and understanding of the pension plan on the part of members of the pension plan and persons receiving pensions, pension benefits, ancillary benefits and payments under the plan.
- 11.8 The advisory committee or its representative is entitled to examine and to make copies of or extracts from the records of the administrator in respect of the administration of the pension

plan. The administrator of the pension plan shall make available to the advisory committee or its representative any information under the administrator's control that is required by the committee or its representative for the purposes of the committee. No records, however, of the service, benefits, salary, and any other personal information relating to any Employee should be furnished to the advisory committee, or its representative, without the prior consent in writing of the Employee.

11.9 This Plan shall be construed in accordance with the laws of the Province of New Brunswick.

## SECTION XII

### **Amendment of Termination of the Plan**

- 12.1 The provisions of the Plan may be amended at any time by the University. No such amendment however, shall have the effect of diminishing the benefits accrued to each Member at the time such amendment comes into effect, consistent with the Fund then accumulated. Any such amendment or any other decision or action of or by the University hereunder shall be binding upon all parties having an interest in the Plan.
- 12.2 The Plan may be discontinued at any time by the University but only upon condition that such action shall render it impossible at any time for any part of the Fund to be used for, or diverted to, purposes other than for the exclusive use of Members, retired Members, or other recipients of benefits under the Plan, until all liabilities under the Plan are fully discharged.
- 12.3 If the Plan is discontinued, the Fund, after provision for administration expenses, shall be allocated in an equitable and suitable manner approved by the University upon the recommendation of the Actuary and in accordance with the Act among Members, retired Members, and other recipients of benefits under the Plan.
- 12.4 Where an amendment results in a certifiable past service pension adjustment (as defined under the Income Tax Act) in respect of a Member, the amendment shall not apply to such Member

prior to certification of the past service pension adjustment in accordance with the Income Tax Act.

## **SCHEDULE A**

### **PART I**

Diversified Fund

### **PART II**

Equity Fund

Short Term Investment Fund

Bond Fund

One-Year Guaranteed Fund

Three-Year Guaranteed Fund

Five-Year Guaranteed Fund

International Fund

United States Value Growth Fund

United States Small Cap Fund

Strategic Allocation Fund

Canadian Value Growth Fund

Global Equity Fund