Davidson College
Tax-Deferred Annuity (TDA) Plan

Amended and Restated Effective July 1, 2008
Davidson College Tax-Deferred Annuity (TDA) Plan

Section 1
Definition of Terms Used

The following words and terms, when used in the Plan, have the meaning set forth below.

1.1 "Account": The account or accumulation maintained for the benefit of any Participant or Beneficiary under an Annuity Contract or a Custodial Account. The current balance of a Participant's Account includes all Elective Deferrals, less any expense charges, and reflects investment experience.

1.2 "Account Balance": The bookkeeping account maintained for each Participant which reflects the aggregate amount credited to the Participant's Account under all Accounts, including the Participant's Elective Deferrals, the earnings or loss of each Annuity Contract or a Custodial Account (net of expenses) allocable to the Participant, any transfers for the Participant's benefit, and any distribution made to the Participant or the Participant's Beneficiary. If a Participant has more than one Beneficiary at the time of the Participant's death, then a separate Account Balance shall be maintained for each Beneficiary. The Account Balance includes any account established under Section 6 for rollover contributions and plan-to-plan transfers made for a Participant, the account established for a Beneficiary after a Participant's death, and any account or accounts established for an alternate payee (as defined in section 414(p)(8) of the Code).

1.3 "Administrator": The Retirement Planning Committee, which shall consist of the College's Vice-President of Business and Finance, Controller, Chief Investment Officer, Director of Human Resources and Assistant Director of Human Resources, or such other individuals as the Board may appoint from time to time.

1.4 "Annuity Contract": A nontransferable contract as defined in section 403(b)(1) of the Code, established for each Participant by the College, or by each Participant individually, that is issued by an insurance company qualified to issue annuities in North Carolina and that includes payment in the form of an annuity.

1.5 "Beneficiary": The designated person who is entitled to receive benefits under the Plan after the death of a Participant, subject to such additional rules as may be set forth in the Individual Agreements.

1.6 "Board": The College's Board of Trustees.

1.7 "Custodial Account": The group or individual custodial account or accounts, as defined in section 403(b)(7) of the Code, established for each Participant by the College, or by each Participant individually, to hold assets of the Plan.
1.8 "Code": The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered.

1.9 "College": Davidson College

1.10 "Compensation": All cash compensation for services to the College, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Employee's gross income for the calendar year, plus amounts that would be cash compensation for services to the College includible in the Employee's gross income for the calendar year but which were excluded under a compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including an election under Section 2 made to reduce compensation in order to have Elective Deferrals under the Plan).

1.11 "Disabled": The definition of disability provided in the applicable Individual Agreement.

1.12 "Effective Date:" The Effective date of this amended and restated Plan is July 1, 2008, in compliance with the final Treasury Regulations under section 403(b) of the Code. The plan was originally established as of October 1, 1976.

1.13 "Elective Deferral": The College contributions made to the Plan at the election of the Participant in lieu of receiving cash compensation. Elective Deferrals are limited to pre-tax salary reduction contributions.

1.14 "Employee": Each individual, whether appointed or elected, who is a common law employee of the College. This definition is not applicable unless the individual's compensation for performing services is paid by the College.

1.15 "Funding Vehicles": The Annuity Contracts or Custodial Accounts issued for funding amounts held under the Plan and specifically approved by the College for use under the Plan.

1.16 "Includible Compensation": An Employee's actual wages in box 1 of Form W-2 for a year for services to the College, but subject to a maximum of $200,000 (or such higher maximum as may apply under section 401(a)(17) of the Code) and increased (up to the dollar maximum) by any compensation reduction election under section 125, 132(f), 401(k), 403(b), or 457(b) of the Code (including any Elective Deferral under the Plan).

1.17 "Individual Agreement": The agreements between a Vendor and the College or a Participant that constitutes or governs a Custodial Account or an Annuity Contract.

1.18 "Participant": An individual for whom Elective Deferrals are currently being made, or for whom Elective Deferrals have previously been made, under the Plan and who has not received a distribution of his or her entire benefit under the Plan.
1.19 "Plan": The Davidson College Tax-Deferred Annuity (TDA) Plan

1.20 "Plan Year": The calendar year.

1.21 "Qualified Election": A waiver of a Qualified Joint and Survivor Annuity or a Qualified Pre-retirement Survivor Annuity. Any waiver of a Qualified Joint and Survivor Annuity or a Qualified Pre-retirement Survivor Annuity shall not be effective unless: (a) the Participant's spouse consents in writing to the election; (b) the election designates a specific Beneficiary(ies), including any class of Beneficiaries or any contingent Beneficiaries, which may not be changed without spousal consent (unless the spouse expressly permits designations by the Participant without any further spousal consent); (c) the spouse's consent acknowledges the effect of the election; and (d) the spouse's consent is witnessed by a Plan representative or notary public. Additionally, a Participant's waiver of the Qualified Joint and Survivor Annuity shall not be effective unless the election designates a form of benefit payment that may not be changed without spousal consent (or the spouse expressly permits designations by the Participant without any further spousal consent). If it is established to the satisfaction of a Plan representative that there is no spouse or that the spouse cannot be located, a waiver will be deemed a Qualified Election.

Any consent by a spouse obtained under this provision (or establishment that the consent of a spouse may not be obtained) shall be effective only with respect to such spouse. A consent that permits designations by the Participant without any requirement of further consent by such spouse must acknowledge that the spouse has the right to limit consent to a specific Beneficiary(ies), and a specific form of benefit where applicable, and that the spouse voluntarily elects to relinquish either or both of such rights. A revocation of a prior waiver may be made by a Participant without the consent of the spouse at any time before the commencement of benefits. The number of revocations shall not be limited. No consent obtained under this provision shall be valid unless the Participant has received notice as provided in Section 5.4.

1.22 "Qualified Joint and Survivor Annuity": An immediate annuity for the life of the Participant with a survivor annuity for the life of the spouse that is not less than 50 percent (and not more than 100 percent) of the amount payable during the joint lives of the Participant and the spouse that can be purchased with the Participant's Account. The percentage of the survivor annuity under the Plan shall be 50 percent.

1.23 "Qualified Pre-retirement Survivor Annuity": An annuity for the life of the surviving spouse of a deceased Participant the actuarial equivalent of which is not less than 50 percent of the Participant's Account Balance at the date of death.

1.24 "Severance from Employment": For purpose of the Plan, Severance from Employment means Severance from Employment with the College.

1.25 "Vendor": The provider of an Annuity Contract or Custodial Account.
Section 2
Participation and Contributions

2.1 **Eligibility.** Each Employee shall be eligible to participate in the Plan and elect to have Elective Deferrals made on his or her behalf on the first of the month following becoming employed by the College.

2.2 **Compensation Reduction Election.** An Employee elects to become a Participant by executing an election to reduce his or her Compensation (and have that amount contributed as an Elective Deferral on his or her behalf) and filing it with the Administrator. This Compensation reduction election shall be made on the agreement provided by the Administrator under which the Employee agrees to be bound by all the terms and conditions of the Plan. The Administrator may establish an annual minimum deferral amount no higher than $200, and may change such minimum to a lower amount from time to time. The participation election shall also include designation of the Funding Vehicles and Accounts therein to which Elective Deferrals are to be made and a designation of Beneficiary. Any such election shall remain in effect until a new election is filed. Only an individual who performs services for the College as an Employee may reduce his or her Compensation under the Plan. Each Employee will become a Participant in accordance with the terms and conditions of the Individual Agreements. All Elective Deferrals shall be made on a pre-tax basis. An Employee shall become a Participant as soon as administratively practicable following the date applicable under the employee’s election.

2.3 **Information Provided by the Employee.** Each Employee enrolling in the Plan should provide to the Administrator at the time of initial enrollment, and later if there are any changes, any information necessary or advisable for the Administrator to administer the Plan, including any information required under the Individual Agreements.

2.4 **Change in Elective Deferrals Election.** Subject to the provisions of the applicable Individual Agreements, an Employee may at any time revise his or her participation election, including a change of the amount of his or her Elective Deferrals, his or her investment direction, and his or her designated Beneficiary. A change in the investment direction shall take effect as of the date provided by the Vendor on a uniform basis for all Employees. A change in the Beneficiary designation shall take effect when the election is accepted by the Vendor.

2.5 **Contributions Made Promptly.** Elective Deferrals under the Plan shall be transferred to the applicable Funding Vehicle within fifteen (15) business days following the end of the month in which the amount would otherwise have been paid to the Participant.
2.6 **Leave of Absence.** Unless an election is otherwise revised, if an Employee is absent from work by leave of absence, Elective Deferrals under the Plan shall continue to the extent that Compensation continues.

**Section 3**

**Limitations on Amounts Deferred**

3.1 **Basic Annual Limitation.** Except as provided in Sections 3.2 and 3.3, the maximum amount of the Elective Deferral under the Plan for any calendar year shall not exceed the lesser of (a) the applicable dollar amount or (b) the Participant's Includible Compensation for the calendar year. The applicable dollar amount is the amount established under section 402(g)(1)(B) of the Code, which is $15,500 for 2008, and is adjusted for cost-of-living after 2008 to the extent provided under section 415(d) of the Code.

3.2 **Age 50 Catch-up Elective Deferral Contributions.** An Employee who is a Participant who will attain age 50 or more by the end of the calendar year is permitted to elect an additional amount of Elective Deferrals, up to the maximum age 50 catch-up Elective Deferrals for the year. The maximum dollar amount of the age 50 catch-up Elective Deferrals for a year is $5,000 for 2008, and is adjusted for cost-of-living after 2008 to the extent provided under the Code.

3.3 **Coordination.** Amounts in excess of the limitation set forth in Section 3.1 shall be allocated as an age 50 catch-up contribution under Section 3.2. However, in no event can the amount of the Elective Deferrals for a year be more than the Participant’s Compensation for the year.

3.4 **Special Rule for a Participant Covered by Another Section 403(b) Plan.** For purposes of this Section 3, if the Participant is or has been a participant in one or more other plans under section 403(b) of the Code (and any other plan that permits elective deferrals under section 402(g) of the Code), then this Plan and all such other plans shall be considered as one plan for purposes of applying the foregoing limitations of this Section 3. For this purpose, the Administrator shall take into account any other such plan for which the Administrator receives from the Participant sufficient information concerning his or her participation in such other plan.

3.5 **Correction of Excess Elective Deferrals.** If the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described above, or the Elective Deferral on behalf of a Participant for any calendar year exceeds the limitations described above when combined with other amounts deferred by the Participant under another plan of the employer under section 403(b) of the Code (and any other plan that permits elective deferrals under section 402(g) of the Code for which the Participant provides information that is accepted by the Administrator), then the Elective Deferral, to the extent in excess of the applicable limitation (adjusted for any income or loss in value, if any, allocable thereto), shall be distributed to the Participant.
3.6 Protection of Persons Who Serve in a Uniformed Service. An Employee whose employment is interrupted by qualified military service under section 414(u) of the Code or who is on a leave of absence for qualified military service under section 414(u) of the Code may elect to make additional Elective Deferrals upon resumption of employment with the College equal to the maximum Elective Deferrals that the Employee could have elected during that period if the Employee's employment with the College had continued (at the same level of Compensation) without the interruption or leave, reduced by the Elective Deferrals, if any, actually made for the Employee during the period of the interruption or leave. Except to the extent provided under section 414(u) of the Code, this right applies for five years following the resumption of employment (or, if sooner, for a period equal to three times the period of the interruption or leave).

Section 4 Loans

4.1 Loans. Loans shall be permitted under the Plan to the extent permitted by the Individual Agreements controlling the Account assets from which the loan is made and by which the loan will be secured. A Participant may have only one (1) loan outstanding at a time. A Participant who defaults on his or her loans obligations to the Plan under this Section 4 and any Individual Agreement will may not receive a subsequent loan from the Plan.

4.2 Information Coordination Concerning Loans. Each Vendor is responsible for all information reporting and tax withholding required by applicable federal and state law in connection with distributions and loans. To minimize the instances in which Participants have taxable income as a result of loans from the Plan, the Administrator shall take such steps as may be appropriate to coordinate the limitations on loans set forth in Section 4.3, including the collection of information from Vendors, and transmission of information requested by any Vendor, concerning the outstanding balance of any loans made to a Participant under the Plan or any other plan of the College. The Administrator shall also take such steps as may be appropriate to collect information from Vendors, and transmission of information to any Vendor, concerning any failure by a Participant to repay timely any loans made to a Participant under the Plan or any other plan of the College.

4.3 Maximum Loan Amount. No loan to a Participant under the Plan may exceed the lesser of:

(a) $50,000, reduced by the highest outstanding balance on any loan from the Plan to the Participant during the one-year period ending on the day before the date the loan is approved by the Administrator (not taking into account any payments made during such one-year period); or

(b) one half of the value of the Participant's vested Account Balance (as of the close of the last business day immediately preceding the date on which such loan is approved by the Administrator).
Section 5
Benefit Distributions

5.1 Benefit Distributions At Severance from Employment or Other Distribution Event. Except as permitted under Section 3.5 (relating to excess Elective Deferrals), Section 5.5 (relating to hardship), or Section 8.3 (relating to termination of the Plan), distributions from a Participant’s Account may not be made earlier than the earliest of the date on which the Participation has a Severance from Employment, dies, becomes Disabled, or attains age 59½. Distributions shall otherwise be made in accordance with the terms of the Individual Agreements.

5.2 Small Account Balances. The terms of the Individual Agreement may permit distributions to be made in the form of a lump-sum payment, without the consent of the Participant or Beneficiary, but no such payment may be made without the consent of the Participant or Beneficiary unless the Account Balance does not exceed $5,000 (determined without regard to any separate account that holds rollover contributions under Section 6.1) and any such distribution shall comply with the requirements of section 401(a)(31)(B) of the Code (relating to automatic distribution as a direct rollover to an individual retirement plan for distributions in excess of $1,000).

5.3 Minimum Distributions. Each Individual Agreement shall comply with the minimum distribution requirements of section 401(a)(9) of the Code and the regulations thereunder. For purposes of applying the distribution rules of section 401(a)(9) of the Code, each Individual Agreement is treated as an individual retirement account (IRA) and distributions shall be made in accordance with the provisions of §1.408-8 of the Treasury Regulations, except as provided in § 1.403(b)-6(e) of the Treasury Regulations.

5.4 Joint and Survivor Annuity Requirements. The provisions of this section shall apply to any Participant who is credited with one Hour of Service at the College on or after August 23, 1984. However, any Participant in this Plan not receiving benefits as of August 23, 1984 may elect to have benefits paid in a manner described herein.

(a) Pre-retirement Spousal Entitlement. Unless a Qualified Election is made, if a married Participant dies before the date benefits commence, the Participant's Account shall be applied toward the purchase of a Qualified Pre-retirement Survivor Annuity. The surviving spouse may elect to have such annuity distributed within a reasonable period after the Participant's death.

In the case of a Qualified Pre-retirement Survivor Annuity, the Institution shall provide each Participant, within the applicable period for such Participant, a written explanation of the Qualified Pre-retirement Survivor Annuity in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements for notification of a Qualified Joint and Survivor Annuity.
The applicable period for a Participant is whichever of the following periods ends last: (a) the period beginning with the first day of the Plan Year in which the Participant attains age 32 and ending with the close of the Plan Year preceding the Plan Year in which the Participant attains age 35; (b) a reasonable period after an Eligible Employee becomes a Participant; or (c) a reasonable period ending after this section first applies to the Participant. Notwithstanding the foregoing, notice must be provided within a reasonable period ending after separation of service in the case of a Participant who separates from service before attaining age 35.

For applying the preceding paragraph, a reasonable period ending after the enumerated events is the end of the two-year period beginning one year before the date the applicable event occurs, and ending one year after that date. For a Participant who separates from service before the Plan Year in which age 35 is attained, notice should be provided within the two-year period beginning one year before separation and ending one year after separation. If such a Participant thereafter returns to employment with the Institution, the applicable period for such Participant shall be redetermined.

(b) **Post-retirement Spousal Entitlement.** Unless a Qualified Election is made within the 90-day period ending on the date benefits commence, a married Participant's Account will be paid in the form of a Qualified Joint and Survivor Annuity and an unmarried Participant's Account will be paid in the form of a single life annuity.

(c) **Notification of Post-retirement Spousal Entitlement.** In the case of a Qualified Joint and Survivor Annuity, the Institution shall no less than 30 days and no more than 90 days before the date benefits commence provide each Participant a written explanation of: (a) the terms and conditions of a Qualified Joint and Survivor Annuity; (b) the Participant's right to make and the effect of an election to waive the Qualified Joint and Survivor Annuity form of benefit; (c) the rights of a Participant's spouse; and (d) the right to waive a Qualified Joint and Survivor Annuity.

If the Participant, after receiving the explanation, elects a form of benefit and the spouse consents to the benefit (if necessary), the Plan will not fail to satisfy the requirements of this paragraph merely because the annuity starting date is less than 30 days after the written explanation is given to the Participant provided (1) the explanation is provided prior to the annuity starting date; (2) the distribution does not commence before the expiration of the 7-day period that begins the day after the explanation is provided to the Participant; and (3) prior to the expiration of the 7-day period, or the annuity starting date, if later, the Participant may revoke the distribution election.
5.5 **Hardship Withdrawals.**

(a) Hardship withdrawals shall be permitted under the Plan to the extent permitted by the Individual Agreements controlling the Account assets to be withdrawn to satisfy the hardship. If applicable under an Individual Agreement, no Elective Deferrals shall be allowed under the Plan during the 6-month period beginning on the date the Participant receives a distribution on account of hardship.

(b) The Individual Agreements shall provide for the exchange of information among the College and the Vendors to the extent necessary to implement the Individual Agreements, including, in the case of a hardship withdrawal that is automatically deemed to be necessary to satisfy the Participant’s financial need (pursuant to §1.401(k)-1(d)(3)(iv)(E) of the Treasury Regulations), the Vendor notifying the College of the withdrawal in order for the College to implement the resulting 6-month suspension of the Participant’s right to make Elective Deferrals under the Plan. In addition, in the case of a hardship withdrawal that is not automatically deemed to be necessary to satisfy the financial need (pursuant to §1.401(k)-1(d)(3)(iii)(B) of the Treasury Regulations), the Vendor shall obtain information from the College or other Vendors to determine the amount of any plan loans and rollover accounts that are available to the Participant under the Plan to satisfy the financial need.

5.6 **Rollover Distributions.**

(a) A Participant or the Beneficiary of a deceased Participant (or a Participant’s spouse or former spouse who is an alternate payee under a domestic relations order, as defined in section 414(p) of the Code) who is entitled to an eligible rollover distribution may elect to have any portion of an eligible rollover distribution (as defined in section 402(c)(4) of the Code) from the Plan paid directly to an eligible retirement plan (as defined in section 402(c)(6)(B) of the Code) specified by the Participant in a direct rollover. In the case of a distribution to a Beneficiary who at the time of the Participant’s death was neither the spouse of the Participant nor the spouse or former spouse of the participant who is an alternate payee under a domestic relations order, a direct rollover is payable only to an individual retirement account or individual retirement annuity (“IRA”) that has been established on behalf of the Beneficiary as an inherited IRA (within the meaning of section 408(d)(3)(C) of the Code).

(b) Each Vendor shall be separately responsible for providing, within a reasonable time period before making an initial eligible rollover distribution, an explanation to the Participant of his or her right to elect a direct rollover and the income tax withholding consequences of not electing a direct rollover.
Section 6
Rollovers to the Plan and Transfers

6.1 Eligible Rollover Contributions to the Plan.

(a) Eligible Rollover Contributions. To the extent provided in the Individual Agreements, an Employee who is a Participant who is entitled to receive an eligible rollover distribution from another eligible retirement plan may request to have all or a portion of the eligible rollover distribution paid to the Plan. Such rollover contributions shall be made in the form of cash only. The Vendor may require such documentation from the distributing plan as it deems necessary to effectuate the rollover in accordance with section 402 of the Code and to confirm that such plan is an eligible retirement plan within the meaning of section 402(c)(8)(B) of the Code. However, in no event does the Plan accept a rollover contribution from a Roth elective deferral account under an applicable retirement plan described in section 402A(e)(1) of the Code or a Roth IRA described in section 408A of the Code.

(b) Eligible Rollover Distribution. For purposes of Section 6.1(a), an eligible rollover distribution means any distribution of all or any portion of a Participant’s benefit under another eligible retirement plan, except that an eligible rollover distribution does not include (1) any installment payment for a period of 10 years or more, (2) any distribution made as a result of an unforeseeable emergency or other distribution which is made upon hardship of the employee, or (3) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under section 401(a)(9) of the Code. In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 401(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution.

(c) Separate Accounts. The Vendor shall establish and maintain for the Participant a separate account for any eligible rollover distribution paid to the Plan.

6.2 Plan-to-Plan Transfers to the Plan.

(a) Any Employee who is a participant in another plan under section 403(b) of the Code may transfer of assets to the Plan as provided in this Section 6.2. Such a transfer is permitted only if the other plan provides for the direct transfer of each person’s entire interest therein to the Plan and the participant is an employee or former employee of the College. The Administrator and any Vendor accepting such transferred amounts may require that the transfer be in cash or other property acceptable to it. The Administrator or any Vendor accepting such transferred amounts may require such documentation from the other plan as it
deems necessary to effectuate the transfer in accordance with § 1.403(b)-10(b)(3) of the Treasury Regulations and to confirm that the other plan is a plan that satisfies section 403(b) of the Code.

(b) The amount so transferred shall be credited to the Participant’s Account Balance, so that the Participant whose assets are being transferred has an accumulated benefit immediately after the transfer at least equal to the accumulated benefit with respect to that Participant or Beneficiary immediately before the transfer.

(c) To the extent provided in the Individual Agreements holding such transferred amounts, the amount transferred shall be held, accounted for, administered and otherwise treated in the same manner as an Elective Deferral by the Participant under the Plan, except that (1) the Individual Agreement which holds any amount transferred to the Plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the Individual Agreement must impose restrictions on distributions to the Participant whose assets are being transferred that are not less stringent than those imposed on the transferor plan and (2) the transferred amount shall not be considered an Elective Deferral under the Plan in determining the maximum deferral under Section 3.

6.3 Plan-to-Plan Transfers from the Plan.

(a) A Participant may elect to have all or any portion of his or her Account Balance transferred to another plan that satisfies section 403(b) of the Code in accordance with § 1.403(b)-10(b)(3) of the Treasury Regulations. A transfer is permitted under this Section 6.3(a) only if such Participant is an employee or former employee of the employer (or the business of the employer) under the receiving plan and the other plan provides for the acceptance of plan-to-plan transfers with respect to the Participants and for each Participant to have an amount deferred under the other plan immediately after the transfer at least equal to the amount transferred.

(b) The other plan must provide that, to the extent any amount transferred is subject to any distribution restrictions required under section 403(b) of the Code, the other plan shall impose restrictions on distributions to the Participant whose assets are transferred that are not less stringent than those imposed under the Plan. In addition, if the transfer does not constitute a complete transfer of the Participant’s interest in the Plan, the other plan shall treat the amount transferred as a continuation of a pro rata portion of the Participant’s interest in the transferor plan (e.g., a pro rata portion of the Participant’s interest in any after-tax employee contributions).

(c) Upon the transfer of assets under this Section 6.3, the Plan’s liability to pay benefits to the Participant or Beneficiary under this Plan shall be discharged to the extent of the amount so transferred for the Participant or
Beneficiary. The Administrator may require such documentation from the receiving plan as it deems appropriate or necessary to comply with this Section 6.3 (for example, to confirm that the receiving plan satisfies section 403(b) of the Code and to assure that the transfer is permitted under the receiving plan) or to effectuate the transfer pursuant to § 1.403 (b)-1 0(b)(3) of the Treasury Regulations.

6.4 **Contract and Custodial Account Exchanges.**

(a) A Participant or Beneficiary is permitted to change the investment of his or her Account Balance among the Vendors under the Plan, subject to the terms of the Individual Agreements. However, an investment change that includes an investment with a Vendor that is not eligible to receive contributions under Section 2 (referred to below as an exchange) is not permitted unless the conditions in paragraphs (b) through (d) of this Section 6.4 are satisfied.

(b) The Participant or Beneficiary must have an Account Balance immediately after the exchange that is at least equal to the Account Balance of that Participant or Beneficiary immediately before the exchange (taking into account the Account Balance of that Participant or Beneficiary under both section 403(b) contracts or custodial accounts immediately before the exchange).

(c) The Individual Agreement with the receiving Vendor has distribution restrictions with respect to the Participant that are not less stringent than those imposed on the investment being exchanged.

(d) The College enters into an agreement with the receiving Vendor for the other contract or custodial account under which the College and the Vendor will from time to time in the future provide each other with the following information:

(1) Information necessary for the resulting contract or custodial account, or any other contract or custodial accounts to which contributions have been made by the College, to satisfy section 403(b) of the Code, including the following: (i) the College providing information as to whether the Participant’s employment with the College is continuing, and notifying the Vendor when the Participant has had a Severance from Employment (for purposes of the distribution restrictions in Section 5.1); (ii) the Vendor notifying the College of any hardship withdrawal under Section 5.5 if the withdrawal results in a 6-month suspension of the Participant’s right to make Elective Deferrals under the Plan; and (iii) the Vendor providing information to the College or other Vendors concerning the Participant’s or Beneficiary’s section 403(b) contracts or custodial accounts or qualified employer plan benefits (to enable a Vendor to determine the amount of any plan loans and any rollover accounts that are available to the Participant under the Plan in order to satisfy the financial need under the hardship withdrawal rules of Section 5.5); and
(2) Information necessary in order for the resulting contract or custodial account and any other contract or custodial account to which contributions have been made for the Participant by the College to satisfy other tax requirements, including the following: (i) the amount of any plan loan that is outstanding to the Participant in order for a Vendor to determine whether an additional plan loan satisfies the loan limitations of Section 4.3, so that any such additional loan is not a deemed distribution under section 72(p)(1); and (ii) information concerning the Participant’s or Beneficiary’s after-tax employee contributions in order for a Vendor to determine the extent to which a distribution is includable in gross income.

(e) If any Vendor ceases to be eligible to receive Elective Deferrals under the Plan, the College will enter into an information sharing agreement as described in Section 6.4(d) to the extent the College’s contract with the Vendor does not provide for the exchange of information described in Sections 6.4(d)(1) and (2).

Section 7
Investment of Contributions

7.1 Manner of Investment. All Elective Deferrals or other amounts contributed to the Plan, all property and rights purchased with such amounts under the Funding Vehicles, and all income attributable to such amounts, property, or rights shall be held and invested in one or more Annuity Contracts or Custodial Accounts. Each Custodial Account shall provide for it to be impossible, prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries, for any part of the assets and income of the Custodial Account to be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries.

7.2 Investment of Contributions. Each Participant or Beneficiary shall direct the investment of his or her Account among the investment options available under the Annuity Contract or Custodial Account in accordance with the terms of the Individual Agreements. Transfers among Annuity Contracts and Custodial Accounts may be made to the extent provided in the Individual Agreements and permitted under applicable Treasury Regulations.

7.3 Current and Former Vendors. The Administrator shall maintain a list of all Vendors under the Plan. Such list is hereby incorporated as part of the Plan. Each Vendor and the Administrator shall exchange such information as may be necessary to satisfy section 403(b) of the Code or other requirements of applicable law. In the case of a Vendor which is not eligible to receive Elective Deferrals under the Plan (including a Vendor which has ceased to be a Vendor eligible to receive Elective Deferrals under the Plan and a Vendor holding assets under the Plan in accordance with Sections 6.2 or 6.4), the College shall keep the Vendor informed of the name and contact information of the Administrator in order to coordinate information necessary to satisfy section 403(b) of the Code or other requirements of applicable law.
Section 8
Administration

8.1 Plan Administrator. The Administrator is located at #11 Jackson Court, Box 7163, Davidson, NC 28035-7163 and has designated Human Resources Director to be responsible for enrolling Participants, sending Plan Contributions for each Participant to the Vendors, and for performing other duties required for the operation of the Plan.

8.2 Authority of the College. The College has all the powers and authority expressly conferred upon it herein and further shall have discretionary and final authority to determine all questions concerning eligibility and contributions under the Plan, to interpret and construe all terms of the Plan, including any uncertain terms, and to determine any disputes arising under and all questions concerning administration of the Plan. Any determination made by the College shall be given deference, if it is subject to judicial review, and shall be overturned only if it is arbitrary or capricious. In exercising these powers and authority, the College will always exercise good faith, apply standards of uniform application, and refrain from arbitrary action. The College may employ attorneys, agents, and accountants as it finds necessary or advisable to assist it in carrying out its duties. The College will be a "named fiduciary" as that term is defined in Section 402(a)(2) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") for determining eligibility and computing and making Plan Contributions. The College, by action of the Board, may designate a person or persons other than the College to carry out any of its powers, authority, or responsibilities. Any delegation will be set forth in writing.

8.3 Action of the College. Any act authorized, permitted, or required to be taken by the College under the Plan, which has not been delegated in accordance with Section 8.2, may be taken by a majority of the members of the Board, either by vote at a meeting, or in writing without a meeting. All notices, advice, directions, certifications, approvals, and instructions required or authorized to be given by the College under the Plan will be in writing and signed by either (i) a majority of the members of the Board, or by any member or members as may be designated by an instrument in writing, signed by all members, as having authority to execute the documents on its behalf, or ii) a person who becomes authorized to act for the College in accordance with the provisions of the "Authority of the College" in Section 8.2. Any action taken by the College that is authorized, permitted, or required under the Plan and is in accordance with Funding Vehicles contractual obligations are final and binding upon the College, and all persons who have or who claim an interest under the Plan, and all third parties dealing with the College.

8.4 Indemnification. The College will satisfy any liability actually and reasonably incurred by any members of the Board or any person to whom any power, authority or responsibility of the College is delegated pursuant to the "Authority of the College" in Section 8.2 (other than the Vendors). These liabilities include expenses, attorney's fees, judgments, fines, and amounts paid in connection with any threatened, pending or completed action, suit or proceeding related to the exercise (or failure to exercise) of this authority. This is in addition to whatever rights of indemnification exist.
under the articles of incorporation, regulations or by-laws of the College, under any provision of law, or under any other agreement.

8.5 **Investment Manager.** To the extent that Participants allocate contributions to the TIAA Real Estate Account, TIAA will be the investment manager (within the meaning of Section 3(38) of ERISA) with respect to the account balance in the TIAA Real Estate Account. TIAA acknowledges that it is a fiduciary with respect to such assets.

Section 9
Amendment and Plan Termination

9.1 **Termination of Contributions.** The College has adopted the Plan with the intention and expectation that contributions will be continued indefinitely. However, the College has no obligation or liability whatsoever to maintain the Plan for any length of time and may discontinue contributions under the Plan at any time without any liability hereunder for any such discontinuance.

9.2 **Amendment and Termination.** The College reserves the authority to amend or terminate this Plan at any time.

9.3 **Distribution upon Termination of the Plan.** The College may provide that, in connection with a termination of the Plan and subject to any restrictions contained in the Individual Agreements, all Accounts will be distributed, provided that the College on the date of termination does not make contributions to an alternative Annuity Contract or Custodial Account under Code section 403(b) that is not part of the Plan during the period beginning on the date of plan termination and ending 12 months after the distribution of all assets from the Plan, except as permitted by the Treasury Regulations.

Section 10
Miscellaneous

10.1 **Non-Assignability.** Except as provided in Sections 10.2 and 10.3, the interests of each Participant or Beneficiary under the Plan are not subject to the claims of the Participant's or Beneficiary's creditors; and neither the Participant nor any Beneficiary shall have any right to sell, assign, transfer, or otherwise convey the right to receive any payments hereunder or any interest under the Plan, which payments and interest are expressly declared to be non-assignable and non-transferable.

10.2 **Domestic Relation Orders.** Notwithstanding Section 10.1, if a judgment, decree or order (including approval of a property settlement agreement) that relates to the provision of child support, alimony payments, or the marital property rights of a spouse or former spouse, child, or other dependent of a Participant is made pursuant to the domestic relations law of any State ("domestic relations order"), then the amount of the Participant's Account Balance shall be paid in the manner and to the person or persons so directed in the domestic relations order. Such payment shall be made without regard to whether the Participant is eligible for a distribution of benefits under the Plan. The Administrator shall establish reasonable procedures for determining the status of any
such decree or order and for effectuating distribution pursuant to the domestic relations order.

10.3 IRS Levy. Notwithstanding Section 10.1, the Administrator may pay from a Participant's or Beneficiary's Account Balance the amount that the Administrator finds is lawfully demanded under a levy issued by the Internal Revenue Service with respect to that Participant or Beneficiary or is sought to be collected by the United States Government under a judgment resulting from an unpaid tax assessment against the Participant or Beneficiary.

10.4 Tax Withholding. Contributions to the Plan are subject to applicable employment taxes (including, if applicable, Federal Insurance Contributions Act (FICA) taxes with respect to Elective Deferrals, which constitute wages under section 3121 of the Code). Any benefit payment made under the Plan is subject to applicable income tax withholding requirements (including section 3401 of the Code and the Treasury Regulations thereunder). A payee shall provide such information as the Administrator may need to satisfy income tax withholding obligations, and any other information that may be required by guidance issued under the Code.

10.5 Payments to Minors and Incompetents. If a Participant or Beneficiary entitled to receive any benefits hereunder is a minor or is adjudged to be legally incapable of giving valid receipt and discharge for such benefits, or is deemed so by the Administrator, benefits will be paid to such person as the Administrator may designate for the benefit of such Participant or Beneficiary. Such payments shall be considered a payment to such Participant or Beneficiary and shall, to the extent made, be deemed a complete discharge of any liability for such payments under the Plan.

10.6 Mistaken Contributions. If any contribution (or any portion of a contribution) is made to the Plan by a good faith mistake of fact, then within one year after the payment of the contribution, and upon receipt in good order of a proper request approved by the Administrator, the amount of the mistaken contribution (adjusted for any income or loss in value, if any, allocable thereto) shall be returned directly to the Participant or, to the extent required or permitted by the Administrator, to the College.

10.7 Procedure When Distributee Cannot Be Located. The Administrator shall make all reasonable attempts to determine the identity and address of a Participant or a Participant's Beneficiary entitled to benefits under the Plan. For this purpose, a reasonable attempt means (a) the mailing by certified mail of a notice to the last known address shown on Davidson College's or the Administrator's records, (b) notification sent to the Social Security Administration or the Pension Benefit Guaranty Corporation (under their program to identify payees under retirement plans), and (c) the payee has not responded within 6 months. If the Administrator is unable to locate such a person entitled to benefits hereunder, or if there has been no claim made for such benefits, the funding vehicle shall continue to hold the benefits due such person.

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

10.9 **Governing Law.** The Plan will be construed, administered and enforced according to the Code and the laws of the State of North Carolina.

10.10 **Headings.** Headings of the Plan have been inserted for convenience of reference only and are to be ignored in any construction of the provisions hereof.

10.11 **Gender.** Pronouns used in the Plan in the masculine or feminine gender include both genders unless the context clearly indicates otherwise.

IN WITNESS WHEREOF, the College has caused this Plan to be executed this _____ day of ____________, 2008.

College:  
By:  
Title:  
Date signed:  

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