

Amendment – HEART Act.

**NON-ERISA  
SPECIMEN 403(b) PLAN  
DEFERRAL ONLY BASIC PLAN DOCUMENT**



FINANCIAL SERVICES  
FOR THE GREATER GOOD<sup>®</sup>

# HEART ACT AMENDMENT

For use with TIAA-CREF's Non-ERISA Deferral-Only  
Specimen 403(b) Basic Plan Document



FINANCIAL SERVICES  
FOR THE GREATER GOOD®

# Heroes Earnings and Assistance Relief Tax Act of 2008 (HEART) Basic Plan Document Amendment

This amendment of the Plan (hereinafter referred to as "the Amendment") is comprised of this Heroes Earnings and Assistance Relief Tax Act of 2008 (HEART) Basic Plan Document Amendment (the "Basic Plan Document Amendment"). The Amendment is adopted to reflect the provisions of the Heroes Earnings and Assistance Relief Tax Act of 2008 (HEART). The Amendment is intended to provide good faith compliance with HEART and related guidance until the Plan is formally restated to incorporate such guidance. The Amendment is effective as specified in this Basic Plan Document Amendment. The Amendment supersedes the existing provisions of the Plan to the extent that those provisions are inconsistent with the provisions of the Amendment.

## DEFINITIONS

### DIFFERENTIAL WAGE PAYMENT

*Differential Wage Payment is added to the Plan as a new defined term with the following definition:*

Means a payment defined in Code Section 3401(h)(2) that is made by the Employer to an individual performing service in the uniformed services.

### COMPENSATION

*The Plan's definition of Compensation is modified by adding the following, as the next alphabetically ordered paragraph, to the end:*

#### Differential Wage Payments

Notwithstanding anything in this Plan to the contrary, for years beginning on or after January 1, 2009, (or, if later, the Effective Date of the Plan) if the Employer chooses to provide Differential Wage Payments to individuals who are active duty members of the uniformed services, such individuals will be treated as Employees of the Employer making the Differential Wage Payment. Differential Wage Payment will be treated as Compensation.

### DEEMED SEVERANCE FROM EMPLOYMENT

*Deemed Severance from Employment is added to the Plan as a new defined term with the following definition:*

Means, effective for years beginning on or after January 1, 2009, (or, if later, the Effective Date of the Plan) and notwithstanding the definition of Differential Wage Payment, an individual is deemed to cease to be an Employee for purposes of Code Section 414(u)(12)(B) during any period the individual is performing service in the uniformed services as defined in Code Section 3401(h)(2)(A).

### EMPLOYEE

*The Plan's definition of Employee is modified by adding the following to the end:*

The term Employee will also include individuals providing qualified military service who are treated as reemployed for purposes of applying the rules under Code Sections 403(b)(314) and 414(u).

## DISTRIBUTIONS

*The Basic Plan Document section titled Miscellaneous Distribution Issues is modified by adding as the next numbered paragraph, to the end:*

Distribution Due to a Deemed Severance from Employment – Effective for years beginning on or after January 1, 2009, individuals who have a Deemed Severance from Employment under Code Section 414(u)(12)(B) during a period of uniformed services as defined in Code Section 3401(h)(2)(A) may elect to receive a distribution of Elective Deferrals and income allocable. If an individual receives a distribution due to a Deemed Severance from Employment, the individual may not make an Elective Deferral or Nondeductible Employee Contribution during the six-month period beginning on the date of the distribution.

## MISCELLANEOUS

*The Basic Plan Document section MISCELLANEOUS is modified by adding as the next numbered section to the end:*

### MILITARY SERVICE

Notwithstanding any provision of this Plan to the contrary, contributions, benefits, and service credit with respect to qualified military service will be provided in accordance with Code Section 414(u), including, but not limited to the following:

#### Part A. Death Benefits

In the case of an individual Participant who dies on or after January 1, 2007, while performing qualified military service (as defined in Code Section 414(u)), the Participant's survivors are entitled to any additional benefits (other than benefit accruals relating to the period of qualified military service) provided under the Plan had the Participant resumed employment with the Employer and then terminated employment on account of death.