

TERMINATION AND SETTLEMENT AGREEMENT

This Termination and Settlement Agreement (the “Termination and Settlement Agreement”) dated as of September 28, 2011 among Bank of America, N.A., (the “Counterparty”) and Lehman Brothers Special Financing, Inc. (“LBSF”), Lehman Brothers Commodities Services Inc. (“LBCS”), Lehman Brothers Commercial Corporation (“LBCC”) and Lehman Brothers Holdings Inc. (“Holdings” and together with LBSF, LBCS and LBCC, the “Lehman Entities” and each a “Lehman Entity”), each as a debtor and debtor in possession in cases under chapter 11 pending in the United States Bankruptcy Court for the Southern District of New York. Counterparty and each of the Lehman Entities may be referred to in this Termination and Settlement Agreement as a “Party” and collectively, the “Parties”.

RECITALS

WHEREAS, Counterparty entered into one or more transactions (the “Lehman Transactions”) that were governed by an ISDA Master Agreement dated as of the date specified on Column 7 of Exhibit A with the Lehman Entity specified on Column 3 of Exhibit A, which included certain schedules, documents, confirmations and a guaranty of the obligations of the specified Lehman Entity by Holdings (as the same may have been amended from time to time, collectively, the “Lehman Agreement Documents”).

WHEREAS, on September 15, 2008, Holdings and, on several dates thereafter (as applicable, the “Commencement Date”), certain of its affiliates (collectively, including the Lehman Entities, the “Debtors”), each filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”).

WHEREAS, the chapter 11 cases of the Debtors are being jointly administered in the Bankruptcy Court as Case No. 08-13555 (collectively, the “Chapter 11 Cases”) and the Debtors are operating and managing their businesses and assets as debtors in possession.

WHEREAS, pursuant to an order of the Bankruptcy Court entered on December 16, 2008, the Bankruptcy Court established Procedures for the Settlement or Assumption and Assignment of Prepetition Derivative Contracts (as amended and/or supplemented from time to time, the “Derivatives Procedures Order”).

WHEREAS, following the commencement of the Chapter 11 Cases, Counterparty filed the following proofs of claim against (a) LBSF, LBCS and LBCC, as applicable, based on such Debtor’s alleged obligations to Counterparty arising under the applicable Lehman Agreement Documents (each such Proof of Claim, a “Primary Claim”) and (b) Holdings, which includes a claim, among other things, arising pursuant to Holdings’ asserted guarantees under the Lehman Agreement Documents (the portion of such guarantee claim that relates solely to said guarantees under the Lehman Agreement Documents, the “Guarantee Claim,” and together with each Primary Claim, the “Asserted Lehman Claims”):

<u>Lehman Entity</u>	<u>Primary Claim Number</u>	<u>Guarantee Claim Number</u>
LBSF	20137	20105
LBCS	20139	20108
LBCC	20138	20106

The Derivatives Framework

WHEREAS, certain creditors, including Counterparty, asserted significant amounts due from certain of the Debtors as a result of the termination of their respective derivatives transactions with such Debtors (each such creditor, a “Bank Counterparty”).

WHEREAS, the Debtors engaged in extended negotiations and discussions with Bank Counterparties to formulate a uniform derivatives settlement framework for the reconciliation, settlement and allowance of the claims of the Bank Counterparties against the Debtors or to provide for the payment of obligations from Bank Counterparties to the Debtors (the “Lehman Receivables”), as applicable, to avoid extensive and costly litigation relating to such claims.

WHEREAS, the Debtors incorporated changes and made adjustments to the proposed derivatives claims settlement framework as a result of arms-length negotiations with certain Bank Counterparties.

WHEREAS, on May 31, 2011, the Debtors posted on their website (www.lehman-docket.com) a final version of the proposed derivatives settlement framework setting forth the principles and methodologies for the calculation, allowance and resolution of the claims of the Bank Counterparties against the Debtors (as updated by the Debtors’ posting on their website of a corrected Grid 17, the “Framework”).

WHEREAS on May 27, 2011, the Debtors proposed settlements for the allowance of claims of the Bank Counterparties against the Debtors or the payment of Lehman Receivables to the Debtors, as applicable, under their respective derivatives transactions in amounts that are calculated in accordance with the Framework (the “Initial Proposals”).

WHEREAS, after further arms-length negotiations and due consideration, the Debtors offered each of the Bank Counterparties a settlement proposal for the allowance of their respective derivatives claims against certain of the Debtors that are subject to the Framework in an amount equal to the Initial Proposal multiplied by 1.1125 (such multiplier, the “Framework True-up”) as a full and final resolution of all issues outstanding as to such claims independent and separate from the Lehman Receivables.

WHEREAS, on or about June 30, 2011, certain Bank Counterparties agreed to settlement agreements with the Debtors in accordance with the Derivatives Procedures Order for the allowance of their derivatives claims against the Debtors and/or the payment of Lehman Receivables to the Debtors in amounts calculated in accordance with the Framework and the Framework True-up.

WHEREAS, thereafter the Debtors continued to engage in negotiations with the non-settling Bank Counterparties (each such creditor identified on Column 2 of Exhibit A, a “Remaining Bank Counterparty,” and the aggregate amount of derivatives claims asserted by each such Remaining Bank Counterparty against a Debtor set forth on Column 4 of Exhibit A, as reconciled from time to time between such Remaining Bank Counterparties and the Debtors, the “Asserted Claims”) seeking the settlement of their derivatives claims in amounts calculated in accordance with the Framework (such amount, as set forth on Column 5 of Exhibit A as to each Remaining Bank Counterparty and inclusive of the Framework True-up, the “Framework Value”) and/or the payment of Lehman Receivables by the Remaining Bank Counterparties to the Debtors.

WHEREAS, Counterparty and the Lehman Entities acknowledge (a) the termination of their respective Lehman Transactions to which they were party under the applicable Lehman Agreement Documents on September 15, 2008, (b) the allowed and agreed upon amount of the Asserted Lehman Claims against the particular Lehman Entity in an amount equal to the Framework Values, and (c) the agreement and amount of the Lehman Receivable payable by Counterparty to LBCC.

WHEREAS, the Debtors may hold or have asserted avoidance claims or causes of action against Counterparty under sections 510, 544, 545, 547, 548, 549, 550 and/or 553(b) of the Bankruptcy Code or under applicable state law in connection with the Lehman Agreement Documents (collectively, the “Avoidance Claims”).

The Setoff Litigation

WHEREAS, prior to the Commencement Date, Holdings established various accounts with Counterparty including accounts numbered 6550xxx465 and 40xxx1 (the “Accounts”).

WHEREAS, as of November 10, 2008, the balance of the Accounts was \$501,820,712 (the “Account Balance”), prior to giving effect to overdraft amounts of \$5,039.00 (the “Overdraft Amounts”).

WHEREAS, on November 10, 2008, without seeking relief from the automatic stay, Counterparty notified Holdings of the seizure and set off of the Account Balance plus the balance in four other accounts (the “Four Accounts”) totaling \$6,987,872 (the Four Accounts being the subject of the Separate Settlement (defined below) and not the subject of this Termination and Settlement Agreement) against indebtedness of Holdings to Counterparty under the Lehman Agreement Documents.

WHEREAS, the Debtors objected to the setoff and demanded a return of the Account Balance.

WHEREAS, on November 26, 2008, Counterparty commenced an adversary proceeding in the Bankruptcy Court (Adv. Pro. No. 08-01753) (JMP)) (the “Adversary Proceeding”), seeking a declaratory judgment that (a) it properly exercised its right of setoff, (b) the setoff did not violate the automatic stay, and (c) in the alternative, Counterparty was entitled to retroactive relief from the automatic stay validating the setoff.

WHEREAS, by order dated May 18, 2011 [Docket No. 16935], the Bankruptcy Court approved a settlement between and among Counterparty, LBSF, LBHI, and the Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc. (the “Separate Settlement”), resolving certain portions of the Adversary Proceeding.

WHEREAS, on May 20, 2011, a judgment entered against Counterparty in favor of Holdings in the amount of \$501,800,000 plus prejudgment interest thereon calculated at the rate of 9% per annum from November 10, 2008 through December 3, 2010, and at the federal judgment interest rate thereafter (the “Judgment”).

WHEREAS, on May 23, 2011, Counterparty filed a notice of appeal from the Judgment (the “Appeal”), which Appeal is currently pending before the United States District Court for the Southern District of New York, Case No. 1-11-cv-03958 (DAB) (the “District Court”).

WHEREAS, Counterparty posted a bond in favor of Holdings in the amount of \$660,553,847.34 in connection with the Appeal (the “Bond”).

Plan Support

WHEREAS, on September 1, 2011, the Debtors filed the *Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors* [Docket No. 19627] (as the same may be amended from time to time, the “Plan”) and the *Debtors’ Disclosure Statement for the Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors* [Docket No. 19629] (the “Disclosure Statement”).

WHEREAS, on September 1, 2011, the Bankruptcy Court entered an amended order approving the Disclosure Statement and voting procedures with respect to the Plan [Docket No. 19631].

WHEREAS, contemporaneously herewith, the Debtors and Counterparty have entered into an agreement pursuant to which Counterparty will support confirmation of the Plan (the “Plan Support Agreement”), subject to the terms and conditions set forth in the Plan Support Agreement.

NOW, THEREFORE, in consideration of the above recitals and good and sufficient consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

Section 1. Filing of Motion to Approve Agreement. The Debtors shall file a motion seeking approval of this Termination and Settlement Agreement by no later than September 28, 2011, after the following have occurred:

(a) the Lehman Entities and Counterparty have executed and delivered this Termination and Settlement Agreement;

(b) the applicable Debtors and each Remaining Bank Counterparty that is affiliated with Merrill Lynch & Co. Inc. (as identified on page 2 of Exhibit A) have executed and delivered a termination and settlement agreement acknowledging the termination of all of their derivatives transactions set forth on Exhibit A thereto and providing for the allowance of claims against the applicable Debtors in an amount equal to the amount of their Framework Values and the payment of the Lehman Receivables to the applicable Debtors (the "Merrill Counterparty TSA"); and

(c) Counterparty has executed and delivered the Plan Support Agreement.

Section 2. Conditions Precedent to the Effectiveness of Agreement. This Termination and Settlement Agreement shall be effective on the first business day that all of the following have occurred (such date, the "Effective Date"):

(a) the Bankruptcy Court has entered an order approving the terms and conditions of this Termination and Settlement Agreement (the "Settlement Order"); and

(b) the Settlement Order has become a Final Order.

For purposes of this Termination and Settlement Agreement, the term "Final Order" shall mean an order of the Bankruptcy Court that has not been stayed, reversed or withdrawn and as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceeding for reargument or rehearing shall then be pending or as to which any right to appeal, petition for certiorari, reargue, or rehear shall have been waived in writing in form and substance reasonably satisfactory to the Counterparty, or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been determined by the highest court to which such order was appealed, or certiorari, reargument, or rehearing shall have been denied and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing shall have expired. For the avoidance of doubt, the Merrill Counterparty TSA need not become effective in order for the Effective Date to occur.

Section 3. Termination. If the Effective Date does not occur on or before October 31, 2011 as a result of the failure to satisfy the condition set forth in Section 2(a) of this Termination and Settlement Agreement, either the Lehman Entities or the Counterparty, may, upon

written notice to other Party, terminate this Termination and Settlement Agreement (a “Section 2(a) Termination Notice”). Notwithstanding anything to the contrary herein, Counterparty may, at its sole discretion and upon written notice to the Lehman Entities (collectively with a Section 2(a) Termination Notice, a “Termination Notice”), terminate this Termination and Settlement Agreement either: (i) on any date following the 120th day after the satisfaction of the condition set forth in Section 2(a), if the Effective Date has not occurred, or (ii) if, after satisfaction of the condition set forth in Section 2(a), the Settlement Order is reversed or vacated. Upon delivery of a Termination Notice, this Termination and Settlement Agreement shall be null and void (other than this Section 3 and Section 18 through Section 24, all of which shall survive), and each of the Parties’ respective interests, rights, remedies and defenses (including, without limitation, with respect to the Asserted Lehman Claims) shall be fully restored without prejudice as if this Termination and Settlement Agreement had never existed.

Section 4. Settlement Amounts.

(a) LBSF and Holdings agree to (i) a settlement amount in favor of Counterparty against LBSF in the amount of \$402,122,339, which represents Counterparty’s Framework Value in respect of the Lehman Transactions between Counterparty and LBSF (the “LBSF Settlement Amount”) and (ii) a settlement amount in favor of Counterparty against Holdings in the LBSF Settlement Amount in respect of its Guarantee Claim against Holdings based upon Holdings’ guarantee of LBSF’s obligations under the applicable Lehman Transactions.

(b) LBCS and Holdings agree to (i) a settlement amount in favor of Counterparty against LBCS in the amount of \$11,919,269, which represents Counterparty’s Framework Value in respect of the Lehman Transactions between Counterparty and LBCS (the “LBCS Settlement Amount”) and (ii) a settlement amount in favor of Counterparty against Holdings in the LBCS Settlement Amount in respect of its Guarantee Claim against Holdings based upon Holdings’ guarantee of LBCS’s obligations under the applicable Lehman Transactions.

(c) Counterparty agrees to a settlement amount in favor of LBCC in the amount of \$14,695,124 (the “LBCC Receivable Amount”) in respect of the Lehman Transactions between Counterparty and LBCC.

Section 5. Account Balance.

(a) Counterparty may set off and apply an aggregate of \$145,800,000 (the “Setoff Amount”) of the Account Balance in partial satisfaction of its claims against Holdings (but not its corresponding claims against LBSF and LBCS).

(b) Within ten (10) business days of any initial distribution, payment or transfer made by any of the Debtors to Counterparty under a confirmed and effective chapter 11 plan in the Chapter 11 Cases, Counterparty shall pay to Holdings by wire transfer without deduction, setoff or counterclaim of any kind cash in the amount of \$356,020,712 less the Overdraft Amounts plus interest thereon calculated (i) at the annual rate of 2.84% (non-compounded) on \$356,020,712 less the Overdraft Amounts from November 10, 2008 through December 3, 2010 and (ii) at the annual

rate of 6 basis points on the sum of (1) \$356,020,712 less the Overdraft Amounts and (2) the amount of interest accrued thereon in accordance with Section 5(b)(i), from December 4, 2010 through the date of such transfer (the “Turnover Amount”). Counterparty may in its sole discretion prepay the Turnover Amount at any time to Holdings without penalty. Upon receipt and collection of the Turnover Amount by Holdings, Holdings shall release the Bond.

Section 6. Allowance of General Unsecured Claims.

(a) Counterparty shall have an allowed, nonpriority, non-subordinated, general unsecured claim against LBSF in the amount of the LBSF Settlement Amount (as such amount may be increased from time to time pursuant to Section 13 of this Termination and Settlement Agreement the “Final LBSF Settlement Amount”) for its claims against LBSF under or in connection with the Lehman Agreement Documents governing the Lehman Transactions between Counterparty and LBSF (the “Allowed LBSF Claim”).

(b) Counterparty shall have an allowed, nonpriority, non-subordinated, general unsecured claim against LBCS in the amount of the LBCS Settlement Amount (as such amount may be increased from time to time pursuant to Section 13 of this Termination and Settlement Agreement the “Final LBCS Settlement Amount”) for its claims against LBCS under or in connection with the Lehman Agreement Documents governing the Lehman Transactions between Counterparty and LBSF (the “Allowed LBCS Claim”).

(c) Counterparty shall have an allowed, nonpriority, non-subordinated, general unsecured claim against Holdings in an amount equal to (i) the aggregate of the Final LBSF Settlement Amount and the Final LBCS Settlement Amount *minus* (ii) the Setoff Amount, for its claims against Holdings under or in connection with the Lehman Agreement Documents governing the Lehman Transactions between Counterparty and LBSF and Counterparty and LBCS (the “Allowed Holdings Claim,” together with the Allowed LBSF Claim and the Allowed LBCS Claim, the “Allowed Lehman Claims”).

(d) Except as provided in Section 5(a) hereof, the Allowed Lehman Claims shall not be subject to (i) objections or defenses, whether by way of netting, set-off, recoupment, counterclaim, crossclaim, disallowance, including without limitation under section 502(d) of the Bankruptcy Code, reconsideration under section 502(j) of the Bankruptcy Code, or otherwise, or (ii) any claim under section 510 of the Bankruptcy Code or otherwise that would have the effect of subordinating such claims to the claims of other general unsecured creditors or other creditors having the same or lower priority to general unsecured creditors. Notwithstanding the allowance of the Allowed Lehman Claims hereunder, the treatment of any such Allowed Lehman Claims, including any distributions in respect of such Allowed Lehman Claims, shall be subject to the terms of a confirmed and effective chapter 11 plan in the Chapter 11 Cases.

Section 7. Payment of LBCC Receivable Amount. Within ten (10) business days of any initial distribution, payment or transfer made by any of the Debtors to Counterparty under a confirmed and effective chapter 11 plan in the Chapter 11 Cases, Counterparty shall pay the LBCC Receivable Amount in cash to LBCC by wire transfer without deduction, set-off or

counterclaim of any kind in full and complete satisfaction of all claims of LBCC against Counterparty under or in connection with the Lehman Transactions between LBCC and Counterparty. Counterparty may in its sole discretion prepay the LBCC Receivable Amount at any time to LBCC without penalty. Interest shall not accrue on the LBCC Receivable Amount.

Section 8. Claims Register. In order to reflect the entry into this Termination and Settlement Agreement, the Parties hereto acknowledge and agree that (a) the Asserted Lehman Claims are each hereby deemed amended to the extent necessary to reflect the terms of the settlement reached in this Termination and Settlement Agreement and/or to reflect the reconciliation of the Asserted Lehman Claims that has been ongoing among the Counterparty and the Lehman Entities, which reconciliation has been completed as of the date hereof, (b) none of the Debtors shall join or support, and the Debtors shall file a response in opposition to, any objection to all or any portion of the Asserted Lehman Claims or any derivative or guarantee questionnaire filed in connection therewith, and (c) the Debtors shall not propose, file or support any Chapter 11 plan or any other pleading in any of the Chapter 11 Cases that is inconsistent with the terms and conditions of this Termination and Settlement Agreement. Promptly after the Effective Date, the Lehman Entities and Counterparty shall execute and submit joint instructions to Epiq Bankruptcy Solutions, LLC, requesting that the claims register in the Chapter 11 Cases be amended (i) to reflect the allowance and/or disallowance of the Asserted Lehman Claims in accordance with the terms set forth herein, and (ii) if necessary, to reflect any increase to the Allowed Lehman Claims in accordance with Section 13 of this Termination and Settlement Agreement.

Section 9. Releases and Covenants Not to Sue by the Debtor Releasers.

(a) Upon the Effective Date and except as to the rights and obligations of the Parties as set forth in this Termination and Settlement Agreement, including, without limitation, (i) the Turnover Amount payable to Holdings and (ii) the LBCC Receivable Amount payable to LBCC, each of the Lehman Entities on behalf of itself, its estate, and any other party, person or entity claiming under or through it (each of the foregoing, a "Debtor Releaser"), hereby generally releases, discharges, waives and acquits, unconditionally and irrevocably, Counterparty and its current and former agents, servants, officers, directors, shareholders, employees, subsidiaries, divisions, branches, units, affiliates, parents, attorneys, successors, predecessors, heirs, personal representatives, and assigns (each of the foregoing, a "Released Counterparty"), from all manners of action, causes of action, judgments, sanctions, executions, debts, demands, rights, damages, costs, expenses and claims of every kind, nature, and character whatsoever, including, without limitation, the Avoidance Claims, whether in law or in equity, whether based on contract (including, without limitation, quasi-contract or estoppel), statute, regulation, tort (including, without limitation, intentional torts, fraud, misrepresentation, defamation, breaches of alleged fiduciary duty, recklessness, gross negligence, or negligence) or otherwise, accrued or unaccrued, known or unknown, matured, unmatured, liquidated or unliquidated, certain or contingent, that such Debtor Releaser ever had or claimed to have or now has or claims to have presently or at any future date, against any Released Counterparty arising under or related to (x) the Asserted Lehman Claims, the Lehman Agreement Documents, the Lehman Transactions or the negotiation, execution, performance, termination or any breaches thereof or (y) the Account Balance, the

Adversary Proceeding and any claims asserted therein or the Appeal (the foregoing released claims, the “Debtor Released Claims”).

(b) Each Debtor Releasor covenants not to sue upon or assert against a Released Counterparty, or any person or entity whether or not a Party to this Termination and Settlement Agreement, in any court or other forum any claim of any kind related to the Lehman Agreement Documents, the Lehman Transactions or the performance, breach, liquidation, termination or acceleration thereof, except with respect to a claimed breach by Counterparty of one or more of the terms of this Termination and Settlement Agreement.

Section 10. Releases and Covenants Not to Sue by the Counterparty Releasors.

(a) Upon the Effective Date, and except as to the rights and obligations of the Parties set forth in this Termination and Settlement Agreement, including, without limitation, (i) the setoff authorized pursuant to Section 5(a) hereof and (ii) the Allowed Lehman Claims, Counterparty on behalf of itself and any other party, person or entity claiming under or through it (each of the foregoing, a “Counterparty Releasor”), hereby generally releases, discharges, waives and acquits, unconditionally and irrevocably, each of the Lehman Entities, and its respective current and former agents, servants, officers, directors, shareholders, employees, subsidiaries, divisions, branches, units, affiliates, parents, attorneys, successors, predecessors, heirs, personal representatives, and assigns (each of the foregoing, a “Released Debtor Party”), from all manners of action, causes of action, judgments, executions, debts, demands, rights, damages, costs, expenses and claims of every kind, nature, and character whatsoever, whether in law or in equity, whether based on contract (including, without limitation, quasi-contract or estoppel), statute, regulation, tort (including, without limitation, intentional torts, fraud, misrepresentation, defamation, breaches of alleged fiduciary duty, recklessness, gross negligence, or negligence) or otherwise, accrued or unaccrued, known or unknown, matured, unmatured, liquidated or unliquidated, certain or contingent, that such Counterparty Releasor ever had or claimed to have or now has or claims to have presently or at any future date, against any Released Debtor Party arising under or related to (x) the Asserted Lehman Claims, the Lehman Agreement Documents, the Lehman Transactions or the negotiation, execution, performance, termination or any breaches thereof or (y) the Account Balance, the Adversary Proceeding or the Appeal (the foregoing released claims, the “Counterparty Released Claims,” and together with the Debtor Released Claims, the “Released Claims”).

(b) Each Counterparty Releasor covenants not to sue upon or assert against a Released Debtor Party, or any person or entity whether or not a Party to this Termination and Settlement Agreement, in any court or other forum any claim of any kind related to the Lehman Agreement Documents, the Lehman Transactions or the performance, breach, liquidation, termination or acceleration thereof, except with respect to a claimed breach by a Lehman Entity of one or more of the terms of this Termination and Settlement Agreement.

Section 11. No Effect on Claims Other than Released Claims. Each of (a) the Lehman Entities, on behalf of itself and each of the other Debtor Releasors, on the one hand, and (b) Counterparty, on behalf of itself and each of the other Counterparty Releasors, on the other

hand, expressly reserves, and nothing herein shall impair, all of its rights, actions, defenses, objections, causes of action and claims it might have against the other that are not Released Claims, including, without limitation, any claims asserted by any Counterparty Releasor in a fiduciary or similar capacity for the benefit a party other than Counterparty Releasor (e.g., as trustee, as custodian, as agent or otherwise on behalf of a third party including, without limitation, on behalf of any customer or employee pension plans of any Counterparty Releasor). Nothing herein shall impair the rights and defenses of any of the Debtor Releasors, the Counterparty Releasors or any other person or entity with respect to any claims or causes of action that are not Released Claims. Without limitation of the foregoing, nothing in this Termination and Settlement Agreement is intended to modify in any way the Separate Settlement.

Section 12. Special Provision for Unknown Claims. All rights under Section 1542 of the California Civil Code, or any analogous state or federal law, are hereby expressly WAIVED, if applicable, with respect to any of the claims, injuries, or damages described in the Releases in Section 9 and Section 10. Section 1542 of the California Civil Code reads as follows:

“A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.”

Section 13. Claims Adjustment. From time to time, the LBSF Settlement Amount and the LBCS Settlement Amount may be increased pursuant to this section to a maximum of Counterparty’s Asserted Claims with respect to the corresponding Lehman Transactions.

(a) Subject to Section 13(b), if after the execution and delivery of this Termination and Settlement Agreement by the Parties any of the Debtors enters into a binding settlement agreement with, or files a chapter 11 plan or any other pleading that provides for a settlement with, a Remaining Bank Counterparty that provides for the allowance of its Asserted Claims in an aggregate amount that is greater than such Remaining Bank Counterparty’s Framework Value (each such Remaining Bank Counterparty, a “Non-Framework Creditor” and any such settlement, a “Non-Framework Settlement”), the LBSF Settlement Amount and the LBCS Settlement Amount shall automatically be increased to an amount equal to the product of (i) the LBSF Settlement Amount or the LBCS Settlement Amount, as applicable, and (ii) the quotient of (A) the Non-Framework Creditor’s aggregate allowed claim amount pursuant to its Non-Framework Settlement Agreement, divided by (B) such Non-Framework Creditor’s Framework Value.

(b) If any of the Debtors enters into a Non-Framework Settlement with a Non-Framework Creditor after the execution and delivery of this Termination and Settlement Agreement, the claim amount increases in Section 13(a) shall not apply if any of the following occur:

(i) the Debtors have objected to, opposed or otherwise commenced and prosecuted litigation with reasonable diligence against such Non-Framework Creditor in any judicial forum to challenge the allowance of such Remaining Bank Counterparty's derivatives claims, in whole or in part, in an amount that is not calculated in accordance with the Framework (collectively, the "Litigation") and such Litigation has been pending, including any appeals, for a period of at least eighteen (18) months following the later of (A) the Effective Date and (B) the date on which such Litigation was commenced;

(ii) the Bankruptcy Court or any other trial court has entered an order allowing, over the Debtors' opposition and reasonably diligent prosecution of its objection, such Non-Framework Creditor's Asserted Claims in an amount greater than such Non-Framework Creditor's Framework Value;

(iii) the Non-Framework Settlement, including any chapter 11 plan that may incorporate such Non-Framework Settlement, has not become effective; or

(iv) the allowance of such Non-Framework Creditor's Asserted Claims in an amount in excess of such Non-Framework Creditor's Framework Value is solely as a result of incomplete, inaccurate or improper data regarding trades or collateral between the Lehman Entities and such Non-Framework Creditor, a mathematical miscalculation of such Non-Framework Creditor's Framework Value or some other factual mistake, but is not as a result of a modification of or deviation from the application of the principles set forth in the Framework.

(c) In addition, the Lehman Entities shall provide to Counterparty, no later than the fifth business day of each calendar quarter following the Effective Date, an officer's certificate in the form attached hereto as Exhibit B informing Counterparty whether the Debtors have entered into any settlement with a Remaining Bank Counterparty of its Asserted Claims after the Effective Date, and, if so, the amount of such settlement and the Framework Value for such Remaining Bank Counterparty. If Counterparty has been advised of a settlement with a Remaining Bank Counterparty of its Asserted Claims after the Effective Date, upon a reasonable request from Counterparty, a representative of Counterparty may audit the Lehman Entities in a reasonable manner for purposes of determining whether Section 13(a) and (b) of this Termination and Settlement Agreement have been triggered; *provided, however*, that Counterparty acknowledges and agrees that all of the Bank Counterparties may not conduct more than two audits in the aggregate in respect of a settlement with a Non-Framework Creditor; *provided, further* that, subject to the foregoing, in the event that the Debtors have received an audit request from any other Bank Counterparty within the 60 days prior to the request from Counterparty, the Debtors may delay the audit by such Counterparty until 60 days have elapsed from such prior audit request; *provided, further* that, the Lehman Entities shall provide to Counterparty the result of any audit conducted by a Bank Counterparty that is not affiliated with Counterparty.

(d) At all relevant times after the Effective Date, the Debtors shall use the Final LBSF Settlement Amount or the Final LBCS Settlement Amount, as applicable, that properly reflects all adjustments made pursuant to this Section 13 to calculate the amount of the Allowed

Lehman Claims for all relevant purposes in the Chapter 11 Cases, including voting on and distributions under any Chapter 11 plan.

(e) Counterparty agrees that, notwithstanding anything to the contrary contained in any other agreement of the Parties, the Lehman Entities may provide notice of this Termination and Settlement Agreement, including the Framework Values, Asserted Claims and allowed claim amounts of Counterparty, to other Bank Counterparties as necessary to comply with any similar notice and audit obligations of the Debtors.

Section 14. Stay of and Dismissal of Appeal.

(a) Upon the execution of this Termination and Settlement Agreement, the parties will jointly move in the District Court to stay the Appeal until the Effective Date or termination of this Termination and Settlement Agreement in accordance with the terms hereof.

(b) Within ten (10) business days of the Effective Date, Counterparty shall take all steps necessary to withdraw the Appeal with prejudice.

Section 15. No Opposition to Framework. Counterparty agrees not to oppose, object to or join in or support any objection to, the application of the Framework to the Asserted Claims of other Bank Counterparties and other claimants that have filed derivative claims against the Debtors, including, without limitation, in connection with any (a) objection by the Debtors to the allowance of derivative claims that are not calculated in accordance with the Framework or (b) request by the Debtors for estimation of derivative claims in amounts that are calculated in accordance with the Framework for purposes of voting on or maintaining reserves pursuant to a chapter 11 plan.

Section 16. Setoff. Except as provided in Section 5(a) hereof, Counterparty agrees that it will not, nor will it permit any controlled affiliate, assigns or third party, to set off, recoup, appropriate, or otherwise apply any deposits (general, special, time or demand, provisional or final) in any currency, or any other credits, indebtedness or claims, in any currency, whether direct or indirect, absolute or contingent, matured or unmatured, that are held or owing by it or any third party or affiliate to the Lehman Entities or any of the Debtors, including the Turnover Amount, against the Allowed Lehman Claims. Counterparty hereby irrevocably and unconditionally waives any and all rights to do so, whether such rights arise by virtue of contract or law, including, without limitation, any purported right to set off the Allowed Lehman Claims against (i) any amount payable to a Lehman Entity or any of the Debtors by an entity other than Counterparty, or (ii) any amount payable by Counterparty to a Lehman Entity or a Debtor other than the Lehman Entity against which the applicable Allowed Lehman Claim has been allowed, as applicable. Without limiting the foregoing, under no circumstance (except as provided in Section 5(a) hereof) shall any Counterparty withhold payment to any Lehman Entity or any Debtor on the basis of a right to purportedly set off the Allowed Lehman Claims.

Section 17. Representations.

(a) Each Party represents and warrants to each other Party that (i) subject to Bankruptcy Court approval in the case of the Lehman Entities, the execution, delivery, and performance by such Party of this Termination and Settlement Agreement and the transactions contemplated under this Termination and Settlement Agreement are within the powers of such Party and have been duly authorized by all necessary action on the part of such Party, (ii) this Termination and Settlement Agreement has been duly executed and delivered by such Party and, subject to Bankruptcy Court approval in the case of the Lehman Entities, constitutes a valid and binding obligation of such Party, enforceable against such Party in accordance with the terms hereof, (iii) it is not relying upon any statements, understandings, representations, expectations, or agreements other than those expressly set forth in this Termination and Settlement Agreement, (iv) it has had the opportunity to be represented and advised by legal counsel in connection with this Termination and Settlement Agreement, which it enters voluntarily and of its own choice and not under coercion or duress, (v) it has made its own investigation of the facts and is relying upon its own knowledge and the advice of its counsel, (vi) it has no expectation that any of the other Parties will disclose facts material to the Lehman Agreement Documents or this Termination and Settlement Agreement to it, and (vii) it knowingly waives any and all claims that this Termination and Settlement Agreement was induced by any misrepresentation or non-disclosure and knowingly waives any and all rights to rescind or avoid this Termination and Settlement Agreement based upon presently existing facts, known or unknown.

(b) Each Counterparty represents to the Lehman Entities that as of the date of execution of this Termination and Settlement Agreement, it (i) owns and has good title to the Asserted Lehman Claims, and (ii) has requisite legal authority to enter into and be bound by this Termination and Settlement Agreement.

(c) Each Lehman Entity represents to the Counterparty that as of the date of execution of this Termination and Settlement Agreement, it has not entered into a binding settlement agreement with any other Bank Counterparty that provides for the allowance of such Bank Counterparty's Asserted Claims in an aggregate amount that is greater than such Bank Counterparty's Framework Value.

(d) Each Party is relying upon the representations in this section in entering into the Termination and Settlement Agreement, and such representations are a material inducement for entering into this Termination and Settlement Agreement, which shall survive the execution of this Termination and Settlement Agreement.

Section 18. Execution in Counterparts. This Termination and Settlement Agreement may be executed in any number of counterparts and by different Parties in separate counterparts, each of which when so executed and delivered shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. Delivery of an executed counterpart of a signature page by facsimile or PDF transmission shall be as effective as delivery of a manually executed counterpart.

Section 19. Governing Law/Jurisdiction. This Termination and Settlement Agreement will be construed and enforced in accordance with, and the rights of the Parties shall be governed by, the laws of the State of New York (including Section 5-1401 of the New York General Obligations Law), without regard to conflicts of laws principles that would require the application of the law of another jurisdiction. The Bankruptcy Court shall have exclusive jurisdiction over any action or proceeding with respect to the construction, interpretation and enforcement of this Termination and Settlement Agreement and each Party submits to such jurisdiction and waives any defense based on the location or jurisdiction of such court.

Section 20. Successors and Assigns and Survival. The provisions of this Termination and Settlement Agreement will be binding upon and inure to the benefit of the Parties and their respective successors and assigns. The provisions of this Termination and Settlement Agreement shall survive the confirmation of any chapter 11 plan with respect to any of the Debtors and/or the appointment of a chapter 7 or 11 trustee with respect to any of the Debtors and shall be binding on any chapter 11 trustee or chapter 7 trustee appointed with respect to any of the Debtors.

Section 21. Amendment. This Termination and Settlement Agreement may only be amended, modified, superseded or canceled and any of the terms, covenants, representations, warranties or conditions hereof may be waived only by an instrument in writing executed and delivered by each of the Parties.

Section 22. No Admissions. Neither this Termination and Settlement Agreement, nor any of the terms hereof, nor any negotiations or proceedings in connection herewith, shall constitute or be construed as or be deemed to be evidence of an admission on the part of any Party of any liability or wrongdoing whatsoever, or the truth or untruth, or merit or lack of merit, of any claim or defense of any Party, nor shall this Termination and Settlement Agreement, or any of the terms hereof, or any negotiations or proceedings in connection herewith, or any performance or forbearance hereunder, be offered or received in evidence or used in any proceeding against any Party or its affiliates, except with respect to the effectuation and enforcement of this Termination and Settlement Agreement. Each of the Lehman Entities, on behalf of itself and the other Debtor Releasers, acknowledges that other than with respect to the Asserted Lehman Claims (if the Effective Date has occurred and so long as this Termination and Settlement Agreement continues to be in effect), the resolution and valuation of the Asserted Lehman Claims in accordance with the Framework shall not serve any authoritative purpose against Counterparty or its affiliates with respect to the resolution or valuation of any claims relating to derivatives transactions between Counterparty or its affiliates, and the Debtors or their controlled affiliates. For the avoidance of doubt, and without in any way limiting the foregoing, neither the existence of this Termination and Settlement Agreement nor the terms hereof shall be used, referred to, or submitted as evidence in any dispute or action by the Debtors or Counterparty or its affiliates, including the Merrill Counterparties (as defined in the Merrill Counterparty TSA), with respect to the resolution or valuation of any claims relating to derivatives transactions between any Merrill Counterparty (as defined in the Merrill Counterparty TSA) and the Debtors; *provided, however*, that the Parties may use, refer to or submit into evidence this Termination and Settlement Agreement as is necessary to obtain Bankruptcy Court approval of this Termination and

Settlement Agreement or the Merrill Counterparty TSA, or in the prosecution of any appeals related thereto.

Section 23. Entire Agreement. This Termination and Settlement Agreement, together with the Plan Support Agreement, constitute the entire agreement and understanding of the Parties relating to the subject matter hereof. This Termination and Settlement Agreement and the Plan Support Agreement supersede and replace any and all prior or contemporaneous verbal or written agreements between the Parties concerning the subject matter hereof.

Section 24. Construction. This Termination and Settlement Agreement has been negotiated by the Parties and their respective legal counsel, and legal or equitable principles that might require the construction of this Termination and Settlement Agreement or any of its provisions against the Party responsible for drafting this Termination and Settlement Agreement shall not apply in any construction or interpretation of this Termination and Settlement Agreement after the Effective Date.

Section 25. Severability. If, after the Effective Date any term or other provision of this Termination and Settlement Agreement is invalid, illegal or incapable of being enforced, all other terms and provisions of this Termination and Settlement Agreement shall nevertheless remain in full force and effect so long as the economic and legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to the Parties. Upon any determination that any term or other provision is invalid, illegal, or incapable of being enforced, each Party hereto shall negotiate in good faith to modify this Termination and Settlement Agreement so as to effect the original intent of this Termination and Settlement Agreement as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

IN WITNESS WHEREOF, the undersigned have executed, or have caused to be executed, this Termination and Settlement Agreement on the Effective Date.

BANK OF AMERICA, N.A.

By: _____
Name:
Title:

LEHMAN BROTHERS HOLDINGS INC.

By: _____
Name: Daniel Ehrmann
Title: SVP

LEHMAN BROTHERS SPECIAL FINANCING INC.

By: _____
Name:
Title: Daniel Ehrmann
VP

LEHMAN BROTHERS COMMODITIES SERVICES INC.

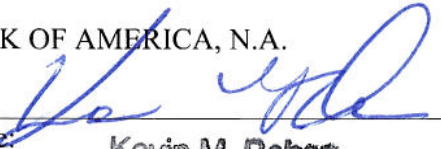
By: _____
Name:
Title: Daniel Ehrmann
VP

LEHMAN BROTHERS COMMERCIAL CORPORATION

By: _____
Name:
Title: Daniel Ehrmann
VP

IN WITNESS WHEREOF, the undersigned have executed, or have caused to be executed, this Termination and Settlement Agreement on the Effective Date.

BANK OF AMERICA, N.A.

By: 
Name: **Kevin M. Behan**
Title: **Senior Vice President**

LEHMAN BROTHERS HOLDINGS INC.

By: _____
Name:
Title:

LEHMAN BROTHERS SPECIAL FINANCING INC.

By: _____
Name:
Title:

LEHMAN BROTHERS COMMODITIES SERVICES INC.

By: _____
Name:
Title:

LEHMAN BROTHERS COMMERCIAL CORPORATION

By: _____
Name:
Title:

Exhibit A

(Remaining Bank Counterparties)

Termination and Settlement Agreement - Exhibit A

All Amounts in US Dollars

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Framework Value	Contract ID	Contract Date
Bank of America Corporation	Bank of America, N.A.	LBSF	(2,859,750,169)	(402,122,339)	60394NBNCLBSF	10/31/1996
Bank of America Corporation	Bank of America, N.A.	LBCS	(11,954,605)	(11,919,269)	60394NBNCLBCS	6/15/2006
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Lehman Receivable	Contract ID	Contract Date
Bank of America Corporation	Bank of America, N.A.	LBCC	(13,221,922)	14,695,124	60394NBNCLBCC	10/28/1998

¹LBCC means Lehman Brothers Commercial Corporation

LBCS means Lehman Brothers Commodity Services Inc.

LBDP means Lehman Brothers Derivative Products Inc.

LBSF means Lehman Brothers Special Financing Inc.

LOTC means Lehman Brothers OTC Derivatives Inc.

Termination and Settlement Agreement - Exhibit A

All Amounts in US Dollars

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Framework Value	Contract ID	Contract Date
Merrill Lynch & Co. Inc.	Merrill Lynch International	LBSF	Redacted	Redacted	102696MLILLBSF	6/21/2001
Merrill Lynch & Co. Inc.	Merrill Lynch Capital Services, Inc.	LBSF	Redacted	Redacted	71499MLCSLBSF	8/9/2001
Merrill Lynch & Co. Inc.	Merrill Lynch International Bank Limited	LBSF	Redacted	Redacted	060600MLCBLBSF	7/27/1998
Merrill Lynch & Co. Inc.	Merrill Lynch Bank & Trust Co., FSB	LBSF	Redacted	Redacted	37282MLBTLBSF	8/9/2001
Merrill Lynch & Co. Inc.	Merrill Lynch Commodities, Inc.	LBCS	Redacted	Redacted	120605MERRLBCS	4/19/2006
Merrill Lynch & Co. Inc.	Merrill Lynch International	LOTC	Redacted	Redacted	102696MLILLOTC	9/4/2007
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Lehman Receivable	Contract ID	Contract Date
Merrill Lynch & Co. Inc.	Merrill Lynch Bank USA	LBSF	Redacted	Redacted	111601MLUSLBSF	8/9/2001
Merrill Lynch & Co. Inc.	Merrill Lynch Commodities (Europe) Limited	LBCS	Redacted	Redacted	052606MLCELBCS	5/23/2006
Merrill Lynch & Co. Inc.	Merrill Lynch International Bank Limited	LBCC	Redacted	Redacted	091197XMLLBCC	7/28/2004
Merrill Lynch & Co. Inc.	Merrill Lynch Capital Services, Inc.	LBCC	Redacted	Redacted	71499MLCSLBCC	7/28/2004

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Termination and Settlement Agreement - Exhibit A

All Amounts in US Dollars

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Framework Value	Contract ID	Contract Date
Citigroup Inc	Citibank, N.A.	LBSF	Redacted	Redacted	40797CITILBSF	5/14/1992
Citigroup Inc	Citigroup Global Markets Ltd	LBSF	Redacted	Redacted	82393SBILLBSF	2/16/2000
Citigroup Inc	Salomon Swapco Inc	LBSF	Redacted	Redacted	112096SSILBSF	8/16/1996
Citigroup Inc	Citigroup Global Markets Ltd	LBCS	Redacted	Redacted	82393SBILLBCS	4/17/2007
Citigroup Inc	Citibank, N.A.	LBCS	Redacted	Redacted	40797CITILBCS	2/21/2006
Citigroup Inc	Citigroup Global Markets Ltd	LBCS	Redacted	Redacted	101607CITILBCS	3/13/2008
Citigroup Inc	TOB Capital LP	LBSF	Redacted	Redacted	050106TOBCLBSF	11/15/2007
Citigroup Inc	Citigroup Financial Products Inc	LBSF	Redacted	Redacted	Rate Cap Agreements terminated September 2, 2009	N/A
Citigroup Inc	Citigroup Financial Products Inc	LBDP	Redacted	Redacted	Rate Cap Agreements terminated September 2, 2009	N/A
Citigroup Inc	Citigroup Financial Products Inc	LBDP	Redacted	Redacted	71521SBHILBDP	9/10/1998
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Lehman Receivable	Contract ID	Contract Date
Citigroup Inc	Citigroup Financial Products Inc	LBSF	Redacted	Redacted	71521SBHILBSF	8/15/1989
Citigroup Inc	Citigroup Energy Inc	LBCS	Redacted	Redacted	111505CITILBCS	2/1/2006
Citigroup Inc	Citibank, N.A.	LBCC	Redacted	Redacted	40797CITILBCC	3/29/1993
Citigroup Inc	Citi Canyon Ltd	LBSF	Redacted	Redacted	072204CITILBSF	10/6/2005

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Termination and Settlement Agreement - Exhibit A

All Amounts in US Dollars

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Framework Value	Contract ID	Contract Date
Credit Suisse Group	Credit Suisse International	LBSF	Redacted	Redacted	79280CSFLLBSF	9/12/2008
Credit Suisse Group	Credit Suisse	LBSF	Redacted	Redacted	071597QCSFLBSF	8/20/2004
Credit Suisse Group	Credit Suisse Securities (Europe) Limited	LBSF	Redacted	Redacted	051697CFBELBSF	6/6/1997
Credit Suisse Group	Credit Suisse Energy LLC	LBCS	Redacted	Redacted	051706CREDLBCS	5/17/2006
Credit Suisse Group	Credit Suisse International	LBCC	Redacted	Redacted	79280CSFLLBCC	12/18/1995
Credit Suisse Group	Credit Suisse	LBCC	Redacted	Redacted	071597QCSFLBCC	8/20/2004
Credit Suisse Group	Credit Suisse Securities (Europe) Limited	LBCC	Redacted	Redacted	051697CFBELBCC	9/28/1998
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Lehman Receivable	Contract ID	Contract Date
Credit Suisse Group	Credit Suisse International	LBCS	Redacted	Redacted	79280CSFLLBCS	3/23/2008

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Termination and Settlement Agreement - Exhibit A

All Amounts in US Dollars

Column 1	Column 2	Column 3	Column 4	Column 5	Column 6	Column 7
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Framework Value	Contract ID	Contract Date
JPMorgan Chase & Co.	JPMorgan Chase Bank, N.A.	LBSF	Redacted	Redacted	71504MGTYLBSF	12/20/1995
JPMorgan Chase & Co.	JPMorgan Chase Bank, N.A.	LBCC	Redacted	Redacted	71504MGTYLBCC	11/15/1993
JPMorgan Chase & Co.	JPMorgan Chase Bank, N.A.	LBCS	Redacted	Redacted	71504MGTYLBCS	2/2/2006
JPMorgan Chase & Co.	Washington Mutual Bank	LBSF	Redacted	Redacted	35622ASBKLBSF	5/28/1998
JPMorgan Chase & Co.	J.P. Morgan Ventures Energy Corporation	LBCS	Redacted	Redacted	061306JPMOLBCS	8/8/2006
Bank	Remaining Bank Counterparty	Debtor Legal Entity ¹	Asserted Claims	Lehman Receivable	Contract ID	Contract Date
JPMorgan Chase & Co.	Bear Stearns Credit Products Inc.	LBSF	Redacted	Redacted	080803BECRLBSF	7/1/2003
JPMorgan Chase & Co.	J.P. Morgan Securities Ltd.	LBCS	Redacted	Redacted	101498JPMSLBCS	10/1/2007
JPMorgan Chase & Co.	Bear, Stearns International Limited	LBSF	Redacted	Redacted	040797EBSILBSF	7/11/2001
JPMorgan Chase & Co.	Bear Stearns Forex Inc.	LBCC	Redacted	Redacted	091097BSFLBCC	3/9/1995
JPMorgan Chase & Co.	JPMorgan Chase & Co.	LBSF	Redacted	Redacted	021207JPMOLBSF	2/14/2003
JPMorgan Chase & Co.	Bear Stearns Bank plc	LBSF	Redacted	Redacted	10493BSCMLBSF	1/6/1993

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