

David Viniar
Chief Financial Officer

**Goldman
Sachs**

March 6, 2009

By Federal Express

Neil M. Barofsky,
Special Inspector General,
Office of the Special Inspector General,
Troubled Asset Relief Program,
1500 Pennsylvania Avenue, N.W., Suite 1064,
Washington, D.C. 20220.

Dear Mr. Barofsky:

We write in response to your letter dated February 6, 2009 concerning the use of Troubled Asset Relief Program ("TARP") funds by The Goldman Sachs Group, Inc. ("Goldman Sachs" or the "Firm").

Request 1

A narrative response specifically outlining (a) your anticipated use of TARP funds; (b) whether the TARP funds were segregated from other institutional funds; (c) your actual use of TARP funds to date; and (d) your expected use of unspent TARP funds. In your response, please take into consideration your anticipated use of TARP funds at the time that you applied for such funds, or any actions that [you] have taken that you would not have been able to take absent the infusion of TARP funds.

Response to Request 1

At the time the Treasury Department announced the Capital Purchase Program on October 14, 2008, Goldman Sachs was not anticipating any government injection of capital. Indeed, on September 23, 2008, Goldman Sachs raised \$5 billion of capital from Berkshire Hathaway, Inc. The following day, the Firm raised another \$5.75 billion in a common stock offering, and could have raised more as the offering was

substantially oversubscribed. Accordingly, Goldman Sachs had developed no plan in advance as to the use of TARP funds.

On October 27, 2008 Goldman Sachs received \$10 billion from the U.S. Treasury in TARP funds. Those funds were not segregated into specific accounts or earmarked for particular purposes, but are instead part of the Firm's overall cash management account.

This capital, combined with the more than \$10.75 billion of capital that Goldman Sachs raised in the three weeks before receiving TARP funds, gave the Firm an even stronger balance sheet and has improved its ability to inject liquidity across markets and extend capital to its clients. Since receiving the \$10 billion of capital on October 27, 2008, and through January 2009, Goldman Sachs has committed over \$14.7 billion in new financing to support its clients. This compares with \$4.5 billion in the three months prior to receiving the government's investment.

Goldman Sachs actively puts its capital to work. The Firm serves a number of important roles for its clients, including as advisor, financier, market maker, asset manager and co-investor. Its business is institutionally dominated, with the vast majority of its capital commitments made on behalf of corporations and institutional investors. Goldman Sachs is not engaged in traditional commercial banking and is not a significant lender to consumers.

Goldman Sachs provides liquidity to institutions which helps the capital markets function. In short, the business of Goldman Sachs requires the Firm to commit capital, and its ability to do so has been enhanced since receiving capital under the Capital Purchase Program. These benefits are evident in a number of different areas of the Firm's business.

First, through its role as a financier, clients frequently expect the Firm's advice to be accompanied by access to the capital necessary to make that advice actionable and practical. Among other things, Goldman Sachs often provides contingent credit to those it advises, such as a commitment to make a bridge loan until other sources of more permanent capital can be arranged. For example, Goldman Sachs put its capital to work on behalf of Sallie Mae to enable it to provide more than \$1.5 billion of student loans. Goldman Sachs made a significant investment in the C.J. Peete Apartments Housing Complex, a mixed-income housing project in New Orleans. Goldman Sachs also committed capital to Verizon Wireless, Pfizer and a number of other major corporations.

Second, as a market maker, Goldman Sachs provides the necessary liquidity to ensure that investors can complete their trades without waiting for a counterparty. In dislocated markets, Goldman Sachs is often required to deploy capital to

hold client positions over a longer term while a transaction is completed. For example, the role Goldman Sachs affiliates play as a specialist and market maker in stocks has grown increasingly significant, particularly in volatile markets when liquidity demands are higher. In certain shares, the Firm's specialist business may account for nearly one-quarter of total trading in a particular stock. Making these markets necessarily requires the commitment of capital to facilitate trading in the relevant stocks. In recent months, Goldman Sachs has also helped its corporate and other clients manage their exposure to interest rate risk, swings in commodity prices and movements in currencies. More broadly, Goldman Sachs has seen widespread reduction in leverage by institutional investors. As institutional investors reduce their various risk exposures, they turn to firms like Goldman Sachs, which play the role of intermediary. This ability to help its clients effectively manage their risk requires the active and significant commitment of capital. In the month of January, for instance, Goldman Sachs provided short-term liquidity to a portion of the mortgage market through a large agency mortgage transaction. This significant extension of capital helped to avert an increase in mortgage rates by facilitating financing of billions of dollars of mortgage securities.

Third, Goldman Sachs also recognizes the importance of remaining an active co-investor with its clients. Over the summer, Goldman Sachs established a \$10.5 billion senior loan fund which makes loans to companies in need of capital. The fund invests both its own capital and that of its clients. This is significant because, in many cases, the normal market mechanisms to facilitate the extension of credit have become dysfunctional. Investors are wary of credit ratings and are reluctant to invest their own money directly. They are understandably seeking some assurance of quality before they are willing to commit capital.

We understand that the TARP funds were never intended to be permanent capital. When conditions allow and with the support of our regulators and the Treasury, we look forward to paying back the government's investment so that the money can be used elsewhere to support our economy.

Request 2

Your specific plans, and the status of implementation of those plans, for addressing executive compensation requirements associated with the funding. Information provided regarding executive compensation should also include any assessments made of loan risks and their relationship to executive compensation; how limitations on executive compensation will be implemented in line with Department of Treasury guidelines; and whether any such limitations may be offset by other

changes to other, longer-term or deferred forms of executive compensation.

Response to Request 2

Goldman Sachs has complied with applicable requirements concerning executive compensation in connection with its receipt of capital under TARP. In that regard, Section 4.10 of the Securities Purchase Agreement between the United States Department of the Treasury ("Treasury") and Goldman Sachs dated October 26, 2008 provides that Goldman Sachs "shall take all necessary action to ensure that its Benefit Plans with respect to its Senior Executive Officers comply in all respects with Section 111(b) of the [Emergency Economic Stabilization Act of 2008] as implemented by any guidance or regulation thereunder that has been issued and is in effect as of the Closing Date, and shall not adopt any new Benefit Plan with respect to its Senior Executive Officers that does not comply therewith."¹ The Securities Purchase Agreement was publicly filed as Exhibit 10.1 to Goldman Sachs' Form 8-K filed with the Securities and Exchange Commission ("SEC") on October 31, 2008. (A copy of the Securities Purchase Agreement is attached hereto as Exhibit A.) We summarize below the ways in which Goldman Sachs has complied with that requirement.

On October 28, 2008, Goldman Sachs provided to Treasury waivers executed by the Firm's five Senior Executive Officers ("SEOs"). The form of waiver was publicly filed as Annex B to Exhibit 10.1 to Goldman Sachs' Form 8-K filed with the SEC on October 31, 2008. (Copies of the executed waivers are attached hereto as Exhibit B.)

On October 28, 2008, Goldman Sachs executed agreements with its five SEOs amending their compensation and benefit arrangements with Goldman Sachs to comply with the requirements of Original EESA Section 111(b). These amendments included the limitation on golden parachutes in Original EESA Section 111(b)(2)(C) and the potential recovery of amounts based on misstated financials or other metrics required by Original EESA 111(b)(2)(B). The form of these agreements was publicly filed as Exhibit 10.58 to Goldman Sachs' Form 10-K filed with the SEC on January 27, 2009. (Copies of these executed agreements are attached as Exhibit C.) Goldman Sachs has not

¹ We refer to Section 111 of EESA (and its subsections) as in effect on October 28, 2008 as "*Original EESA Section 111.*" October 28, 2008 was the Closing Date referred to in the Purchase Agreement. On February 18, 2009, the President signed into law Section 7001 of the American Recovery and Reinvestment Act, which amended Section 111 of EESA. We refer to the amended Section 111 of EESA (and its subsections) as "*New EESA Section 111.*"

attempted to offset the limits imposed by these agreements by altering other forms of compensation for the five SEOs.

As required by Original EESA 111(b), on January 23, 2009, the Compensation Committee of the Board of Directors reviewed with the Firm's senior risk officer the incentive compensation arrangements applicable to SEOs, and has made reasonable efforts to ensure that these arrangements do not encourage SEOs to take unnecessary and excessive risks that threaten the value of the Firm. The Compensation Committee also recommended to the Board, and the Board approved, amendments to the Compensation Committee's charter to provide that the Compensation Committee shall be responsible for assessing the Firm's compliance with the compensation-related requirements imposed under the CPP and for taking any actions required of the Compensation Committee under the applicable Treasury regulations, including meeting annually with the Firm's senior risk officer to discuss and review the relationship between the Firm's risk management policies and practices and its executive compensation arrangements.²

Goldman Sachs has not yet filed its federal tax return for 2008. The Firm has advised responsible personnel in the Firm's tax department to take appropriate steps to ensure that the Firm complies with the Section 162(m)(5) deduction limits applicable to compensation paid to the SEOs. In this regard, it should also be noted that Goldman Sachs' SEOs requested that the Compensation Committee of the Board of Directors not grant them any discretionary bonuses in respect of the Firm's 2008 fiscal year, and the Compensation Committee agreed to that request.

On February 18, 2009, Section 7001 of the American Recovery and Reinvestment Act was signed into law, which amended Section 111 of EESA. As a result of New EESA Section 111(e), the Firm will permit a separate, non-binding vote at its 2009 annual meeting of shareholders to approve the compensation of executives, as disclosed pursuant to the compensation disclosure rules of Securities and Exchange Commission. In addition, the Firm understands that Treasury is in the process of developing new compensation standards applicable to certain of the most highly compensated employees of TARP recipients as mandated by New EESA Section 111(b).

² Pending any changes as a result of guidance implementing New EESA 111, the Compensation Committee anticipates certifying, as currently contemplated by 31 C.F.R. Part 30, as published on October 20, 2008, that it has conducted the preceding review. This certification is currently expected to be part of the Compensation Committee's report that is part of the Firm's annual proxy statement.

Neil M. Barofsky

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I certify that the statements, representations, and supporting information contained in this letter are accurate to the best of my knowledge.

Sincerely,



David A. Viniar
Executive Vice President and
Chief Executive Officer

(Enclosures)

cc: (b) (6)

(Goldman, Sachs & Co.)

October 28, 2008

Lloyd C. Blankfein,
c/o The Goldman Sachs Group, Inc.,
85 Broad Street,
New York, New York 10004.

Dear Lloyd,

The Goldman Sachs Group, Inc. (“GS Group”) has entered into a letter agreement, dated October 26, 2008 (including the Securities Purchase Agreement – Standard Terms incorporated by reference therein, the “*Securities Purchase Agreement*”), with the United States Department of Treasury (“*Treasury*”) as part of GS Group’s participation in the Treasury’s TARP Capital Purchase Program (the “*CPP*”).

For GS Group to participate in the CPP and as a condition to the closing of the investment contemplated by the Securities Purchase Agreement, GS Group is required to establish specified standards for incentive compensation to its “senior executive officers” (as defined below), and to make changes to certain of its compensation arrangements. To comply with these requirements, and in consideration of the benefits that you will receive as a result of GS Group’s participation in the CPP, you agree as follows:

- (1) *No Golden Parachute Payments.* GS Group is prohibiting any golden parachute payment (as defined below) to you during any “CPP Covered Period.” A “*CPP Covered Period*” is any period during which (A) you are a senior executive officer and (B) Treasury holds an equity or debt position acquired from GS Group in the CPP.
- (2) *Recovery of Bonus and Incentive Compensation.* Any bonus or incentive compensation payments to you during a CPP Covered Period is subject to recovery or “clawback” by GS Group if the payments were based on materially inaccurate financial statements or any other materially inaccurate performance metric criteria.
- (3) *Compensation Program Amendments.* Each of GS Group’s compensation, bonus, incentive and other benefit plans, programs, arrangements and agreements (including, without limitation, the Amended and Restated

Stock Incentive Plan and each RSU, stock option and other agreement thereunder, the Partner Compensation Plan, the Restricted Partner Compensation Plan and any document governing any employee special investment) (collectively, "*Benefit Plans*") applicable to you hereby is amended if and to the extent necessary to give effect to provisions (1) and (2) and as required under the Securities Purchase Agreement.

In addition, the CPP requires the Compensation Committee of GS Group's Board of Directors to review annually with GS Group's senior risk officers the features of the Benefit Plans to ensure that they do not encourage senior executive officers to take unnecessary and excessive risks that threaten the value of GS Group. If and to the extent that, as a result of any such review, the Compensation Committee determines any revision to any Benefit Plan is appropriate, you hereby agree to any such revisions and you agree to execute such additional documents as GS Group deems necessary or appropriate to effect such revisions.

(4) *Definitions and Interpretation.* This letter shall be interpreted as follows:

- "Senior executive officer" means GS Group's "senior executive officers" as defined in subsection 111(b)(3) of EESA and the regulations governing the CPP.
- "Golden parachute payment" has the same meaning in subsection 111(b)(2)(C) of EESA.
- "EESA" means the Emergency Economic Stabilization Act of 2008 as implemented by guidance or regulation that has been issued and is in effect as of the "Closing Date" as defined in the Securities Purchase Agreement.
- "GS Group" includes any entities treated as a single employer with GS Group under 31 C.F.R. § 30.1(b) (as in effect on the Closing Date). (We note that you also are delivering a waiver pursuant to the Securities Purchase Agreement, and, as between GS Group and you, the term "employer" in that waiver will be deemed to mean GS Group as used in this letter).
- The term "CPP Covered Period" shall be limited by, and interpreted in a manner consistent with, 31 C.F.R. § 30.11 (as in effect on the Closing Date).
- Provisions (1) and (2) of this letter are intended to, and will be interpreted, administered and construed to, comply with Section 111 of EESA and the regulations thereunder and the regulations governing the CPP (as in effect on the Closing Date) and, to the maximum extent consistent with the preceding, to permit operation of the Benefit Plans in accordance with their terms before giving effect to this letter.

This letter is subject to the provisions of Annex A, which is part hereof.


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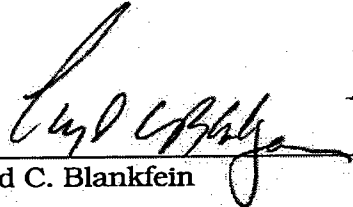
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Very truly yours,

THE GOLDMAN SACHS GROUP, INC.

By: 
Name:
Title:

Intending to be legally bound, I agree
with and accept the foregoing terms.


Lloyd C. Blankfein

ANNEX A

Section 1. Arbitration

(a) Any dispute, controversy or claim between the The Goldman Sachs Group, Inc and its subsidiaries and affiliates (the "Firm") and the Senior Executive Officer Grantee, arising out of or relating to or concerning this letter (this "Agreement"), shall be finally settled by arbitration in New York City before, and in accordance with the rules then obtaining of, the New York Stock Exchange, Inc. (the "NYSE") or, if the NYSE declines to arbitrate the matter in New York City (or if the matter otherwise is not arbitrable by it), the American Arbitration Association (the "AAA") in accordance with the commercial arbitration rules of the AAA. Prior to arbitration, all claims maintained by the Senior Executive Officer must first be submitted to the Compensation Committee (the "Committee") in accordance with claims procedures determined by the Committee. This Section 1 is subject to the provisions of paragraphs (b) and (c) below.

(b) The Firm and the Senior Executive Officer irrevocably submit to the exclusive jurisdiction of any state or federal court located in the city of New York over any suit, action or proceeding arising out of or relating to or concerning this Agreement that is not otherwise arbitrated or resolved according to paragraph (a) above. This includes any suit, action or proceeding to compel arbitration or to enforce an arbitration award. The Senior Executive Officer acknowledges that the forum designated by this paragraph (b) has a reasonable relation to this Agreement and to the Senior Executive Officer's relationship with the Firm. Notwithstanding the foregoing, nothing herein shall preclude the Firm from bringing any suit, action or proceeding in any other court for the purpose of enforcing the provisions of this Section 1 or otherwise.

(c) The agreement by the Senior Executive Officer and the Firm as to forum is independent of the law that may be applied in the suit, action or proceeding and the Senior Executive Officer and the Firm agree to such forum even if the forum may under applicable law choose to apply non-forum law. The Senior Executive Officer hereby (i) waives, to the fullest extent permitted by applicable law, any objection which the Senior Executive Officer may have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding in any court referred to in Section 1(b), (ii) undertakes not to commence any action arising out of or relating to or concerning this Agreement in any forum other than a forum described in this Section 1 and (iii) agrees that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any such suit, action or proceeding in any such court shall be conclusive and binding upon the Senior Executive Officer and the Firm.

(d) The Senior Executive Officer irrevocably appoints each General Counsel of GS Inc. as his or her agent for service of process in connection with any suit, action or proceeding arising out of or relating to or concerning this Agreement which is not arbitrated pursuant to the provisions of Section 1(a), who shall promptly advise the Senior Executive Officer of any such service of process.

(e) The Senior Executive Officer agrees to keep confidential the existence of, and any information concerning, a dispute, controversy or claim described in this Section 1, except that the Senior Executive Officer may disclose information concerning such dispute, controversy or claim to the arbitrator or court that is considering such dispute, controversy or claim or to his or her legal counsel (provided that such counsel

agrees not to disclose any such information other than as necessary to the prosecution or defense of the dispute, controversy or claim).

Section 2. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

October 28, 2008

David A. Viniar,
c/o The Goldman Sachs Group, Inc.,
85 Broad Street,
New York, New York 10004.

Dear David,

The Goldman Sachs Group, Inc. ("GS Group") has entered into a letter agreement, dated October 26, 2008 (including the Securities Purchase Agreement – Standard Terms incorporated by reference therein, the "Securities Purchase Agreement"), with the United States Department of Treasury ("Treasury") as part of GS Group's participation in the Treasury's TARP Capital Purchase Program (the "CPP").

For GS Group to participate in the CPP and as a condition to the closing of the investment contemplated by the Securities Purchase Agreement, GS Group is required to establish specified standards for incentive compensation to its "senior executive officers" (as defined below), and to make changes to certain of its compensation arrangements. To comply with these requirements, and in consideration of the benefits that you will receive as a result of GS Group's participation in the CPP, you agree as follows:

- (1) *No Golden Parachute Payments.* GS Group is prohibiting any golden parachute payment (as defined below) to you during any "CPP Covered Period." A "CPP Covered Period" is any period during which (A) you are a senior executive officer and (B) Treasury holds an equity or debt position acquired from GS Group in the CPP.
- (2) *Recovery of Bonus and Incentive Compensation.* Any bonus or incentive compensation payments to you during a CPP Covered Period is subject to recovery or "clawback" by GS Group if the payments were based on materially inaccurate financial statements or any other materially inaccurate performance metric criteria.
- (3) *Compensation Program Amendments.* Each of GS Group's compensation, bonus, incentive and other benefit plans, programs, arrangements and agreements (including, without limitation, the Amended and Restated

Stock Incentive Plan and each RSU, stock option and other agreement thereunder, the Partner Compensation Plan, the Restricted Partner Compensation Plan and any document governing any employee special investment) (collectively, "*Benefit Plans*") applicable to you hereby is amended if and to the extent necessary to give effect to provisions (1) and (2) and as required under the Securities Purchase Agreement.

In addition, the CPP requires the Compensation Committee of GS Group's Board of Directors to review annually with GS Group's senior risk officers the features of the Benefit Plans to ensure that they do not encourage senior executive officers to take unnecessary and excessive risks that threaten the value of GS Group. If and to the extent that, as a result of any such review, the Compensation Committee determines any revision to any Benefit Plan is appropriate, you hereby agree to any such revisions and you agree to execute such additional documents as GS Group deems necessary or appropriate to effect such revisions.

(4) *Definitions and Interpretation.* This letter shall be interpreted as follows:

- "Senior executive officer" means GS Group's "senior executive officers" as defined in subsection 111(b)(3) of EESA and the regulations governing the CPP.
- "Golden parachute payment" has the same meaning in subsection 111(b)(2)(C) of EESA.
- "EESA" means the Emergency Economic Stabilization Act of 2008 as implemented by guidance or regulation that has been issued and is in effect as of the "Closing Date" as defined in the Securities Purchase Agreement.
- "GS Group" includes any entities treated as a single employer with GS Group under 31 C.F.R. § 30.1(b) (as in effect on the Closing Date). (We note that you also are delivering a waiver pursuant to the Securities Purchase Agreement, and, as between GS Group and you, the term "employer" in that waiver will be deemed to mean GS Group as used in this letter).
- The term "CPP Covered Period" shall be limited by, and interpreted in a manner consistent with, 31 C.F.R. § 30.11 (as in effect on the Closing Date).
- Provisions (1) and (2) of this letter are intended to, and will be interpreted, administered and construed to, comply with Section 111 of EESA and the regulations thereunder and the regulations governing the CPP (as in effect on the Closing Date) and, to the maximum extent consistent with the preceding, to permit operation of the Benefit Plans in accordance with their terms before giving effect to this letter.

This letter is subject to the provisions of Annex A, which is part hereof.

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Very truly yours,

THE GOLDMAN SACHS GROUP, INC.

aw By: Eric E. SGA
Name:
Title:

Intending to be legally bound, I agree
with and accept the foregoing terms.

aw David A. Viniar
David A. Viniar

ANNEX A

Section 1. Arbitration

(a) Any dispute, controversy or claim between the The Goldman Sachs Group, Inc and its subsidiaries and affiliates (the "Firm") and the Senior Executive Officer Grantee, arising out of or relating to or concerning this letter (this "Agreement"), shall be finally settled by arbitration in New York City before, and in accordance with the rules then obtaining of, the New York Stock Exchange, Inc. (the "NYSE") or, if the NYSE declines to arbitrate the matter in New York City (or if the matter otherwise is not arbitrable by it), the American Arbitration Association (the "AAA") in accordance with the commercial arbitration rules of the AAA. Prior to arbitration, all claims maintained by the Senior Executive Officer must first be submitted to the Compensation Committee (the "Committee") in accordance with claims procedures determined by the Committee. This Section 1 is subject to the provisions of paragraphs (b) and (c) below.

(b) The Firm and the Senior Executive Officer irrevocably submit to the exclusive jurisdiction of any state or federal court located in the city of New York over any suit, action or proceeding arising out of or relating to or concerning this Agreement that is not otherwise arbitrated or resolved according to paragraph (a) above. This includes any suit, action or proceeding to compel arbitration or to enforce an arbitration award. The Senior Executive Officer acknowledges that the forum designated by this paragraph (b) has a reasonable relation to this Agreement and to the Senior Executive Officer's relationship with the Firm. Notwithstanding the foregoing, nothing herein shall preclude the Firm from bringing any suit, action or proceeding in any other court for the purpose of enforcing the provisions of this Section 1 or otherwise.

(c) The agreement by the Senior Executive Officer and the Firm as to forum is independent of the law that may be applied in the suit, action or proceeding and the Senior Executive Officer and the Firm agree to such forum even if the forum may under applicable law choose to apply non-forum law. The Senior Executive Officer hereby (i) waives, to the fullest extent permitted by applicable law, any objection which the Senior Executive Officer may have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding in any court referred to in Section 1(b), (ii) undertakes not to commence any action arising out of or relating to or concerning this Agreement in any forum other than a forum described in this Section 1 and (iii) agrees that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any such suit, action or proceeding in any such court shall be conclusive and binding upon the Senior Executive Officer and the Firm.

(d) The Senior Executive Officer irrevocably appoints each General Counsel of GS Inc. as his or her agent for service of process in connection with any suit, action or proceeding arising out of or relating to or concerning this Agreement which is not arbitrated pursuant to the provisions of Section 1(a), who shall promptly advise the Senior Executive Officer of any such service of process.

(e) The Senior Executive Officer agrees to keep confidential the existence of, and any information concerning, a dispute, controversy or claim described in this Section 1, except that the Senior Executive Officer may disclose information concerning such dispute, controversy or claim to the arbitrator or court that is considering such dispute, controversy or claim or to his or her legal counsel (provided that such counsel

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October 28, 2008

Gary D. Cohn,
c/o The Goldman Sachs Group, Inc.,
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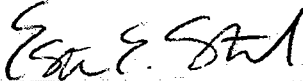
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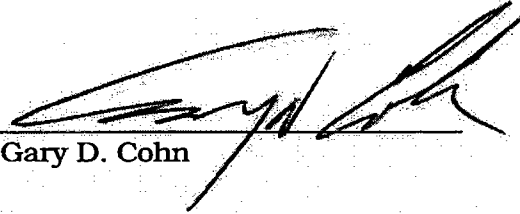
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Very truly yours,

THE GOLDMAN SACHS GROUP, INC.

aw By: 
Name:
Title:

Intending to be legally bound, I agree
with and accept the foregoing terms.

aw 
Gary D. Cohn

ANNEX A

Section 1. Arbitration

(a) Any dispute, controversy or claim between the The Goldman Sachs Group, Inc and its subsidiaries and affiliates (the "Firm") and the Senior Executive Officer Grantee, arising out of or relating to or concerning this letter (this "Agreement"), shall be finally settled by arbitration in New York City before, and in accordance with the rules then obtaining of, the New York Stock Exchange, Inc. (the "NYSE") or, if the NYSE declines to arbitrate the matter in New York City (or if the matter otherwise is not arbitrable by it), the American Arbitration Association (the "AAA") in accordance with the commercial arbitration rules of the AAA. Prior to arbitration, all claims maintained by the Senior Executive Officer must first be submitted to the Compensation Committee (the "Committee") in accordance with claims procedures determined by the Committee. This Section 1 is subject to the provisions of paragraphs (b) and (c) below.

(b) The Firm and the Senior Executive Officer irrevocably submit to the exclusive jurisdiction of any state or federal court located in the city of New York over any suit, action or proceeding arising out of or relating to or concerning this Agreement that is not otherwise arbitrated or resolved according to paragraph (a) above. This includes any suit, action or proceeding to compel arbitration or to enforce an arbitration award. The Senior Executive Officer acknowledges that the forum designated by this paragraph (b) has a reasonable relation to this Agreement and to the Senior Executive Officer's relationship with the Firm. Notwithstanding the foregoing, nothing herein shall preclude the Firm from bringing any suit, action or proceeding in any other court for the purpose of enforcing the provisions of this Section 1 or otherwise.

(c) The agreement by the Senior Executive Officer and the Firm as to forum is independent of the law that may be applied in the suit, action or proceeding and the Senior Executive Officer and the Firm agree to such forum even if the forum may under applicable law choose to apply non-forum law. The Senior Executive Officer hereby (i) waives, to the fullest extent permitted by applicable law, any objection which the Senior Executive Officer may have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding in any court referred to in Section 1(b), (ii) undertakes not to commence any action arising out of or relating to or concerning this Agreement in any forum other than a forum described in this Section 1 and (iii) agrees that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any such suit, action or proceeding in any such court shall be conclusive and binding upon the Senior Executive Officer and the Firm.

(d) The Senior Executive Officer irrevocably appoints each General Counsel of GS Inc. as his or her agent for service of process in connection with any suit, action or proceeding arising out of or relating to or concerning this Agreement which is not arbitrated pursuant to the provisions of Section 1(a), who shall promptly advise the Senior Executive Officer of any such service of process.

(e) The Senior Executive Officer agrees to keep confidential the existence of, and any information concerning, a dispute, controversy or claim described in this Section 1, except that the Senior Executive Officer may disclose information concerning such dispute, controversy or claim to the arbitrator or court that is considering such dispute, controversy or claim or to his or her legal counsel (provided that such counsel

agrees not to disclose any such information other than as necessary to the prosecution or defense of the dispute, controversy or claim).

Section 2. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

October 28, 2008

J. Michael Evans,
c/o The Goldman Sachs Group, Inc.,
85 Broad Street,
New York, New York 10004.

Dear Michael,

The Goldman Sachs Group, Inc. ("*GS Group*") has entered into a letter agreement, dated October 26, 2008 (including the Securities Purchase Agreement – Standard Terms incorporated by reference therein, the "*Securities Purchase Agreement*"), with the United States Department of Treasury ("*Treasury*") as part of GS Group's participation in the Treasury's TARP Capital Purchase Program (the "*CPP*").

For GS Group to participate in the CPP and as a condition to the closing of the investment contemplated by the Securities Purchase Agreement, GS Group is required to establish specified standards for incentive compensation to its "senior executive officers" (as defined below), and to make changes to certain of its compensation arrangements. To comply with these requirements, and in consideration of the benefits that you will receive as a result of GS Group's participation in the CPP, you agree as follows:

- (1) *No Golden Parachute Payments.* GS Group is prohibiting any golden parachute payment (as defined below) to you during any "CPP Covered Period." A "*CPP Covered Period*" is any period during which (A) you are a senior executive officer and (B) Treasury holds an equity or debt position acquired from GS Group in the CPP.
- (2) *Recovery of Bonus and Incentive Compensation.* Any bonus or incentive compensation payments to you during a CPP Covered Period is subject to recovery or "clawback" by GS Group if the payments were based on materially inaccurate financial statements or any other materially inaccurate performance metric criteria.
- (3) *Compensation Program Amendments.* Each of GS Group's compensation, bonus, incentive and other benefit plans, programs, arrangements and agreements (including, without limitation, the Amended and Restated

Stock Incentive Plan and each RSU, stock option and other agreement thereunder, the Partner Compensation Plan, the Restricted Partner Compensation Plan and any document governing any employee special investment) (collectively, "*Benefit Plans*") applicable to you hereby is amended if and to the extent necessary to give effect to provisions (1) and (2) and as required under the Securities Purchase Agreement.

In addition, the CPP requires the Compensation Committee of GS Group's Board of Directors to review annually with GS Group's senior risk officers the features of the Benefit Plans to ensure that they do not encourage senior executive officers to take unnecessary and excessive risks that threaten the value of GS Group. If and to the extent that, as a result of any such review, the Compensation Committee determines any revision to any Benefit Plan is appropriate, you hereby agree to any such revisions and you agree to execute such additional documents as GS Group deems necessary or appropriate to effect such revisions.

(4) *Definitions and Interpretation.* This letter shall be interpreted as follows:

- "Senior executive officer" means GS Group's "senior executive officers" as defined in subsection 111(b)(3) of EESA and the regulations governing the CPP.
- "Golden parachute payment" has the same meaning in subsection 111(b)(2)(C) of EESA.
- "EESA" means the Emergency Economic Stabilization Act of 2008 as implemented by guidance or regulation that has been issued and is in effect as of the "Closing Date" as defined in the Securities Purchase Agreement.
- "GS Group" includes any entities treated as a single employer with GS Group under 31 C.F.R. § 30.1(b) (as in effect on the Closing Date). (We note that you also are delivering a waiver pursuant to the Securities Purchase Agreement, and, as between GS Group and you, the term "employer" in that waiver will be deemed to mean GS Group as used in this letter).
- The term "CPP Covered Period" shall be limited by, and interpreted in a manner consistent with, 31 C.F.R. § 30.11 (as in effect on the Closing Date).
- Provisions (1) and (2) of this letter are intended to, and will be interpreted, administered and construed to, comply with Section 111 of EESA and the regulations thereunder and the regulations governing the CPP (as in effect on the Closing Date) and, to the maximum extent consistent with the preceding, to permit operation of the Benefit Plans in accordance with their terms before giving effect to this letter.

This letter is subject to the provisions of Annex A, which is part hereof.

*

*

*

Very truly yours,

THE GOLDMAN SACHS GROUP, INC.

aw By: Eric S. Galt
Name:
Title:

Intending to be legally bound, I agree
with and accept the foregoing terms.

aw J. Michael Evans
J. Michael Evans

ANNEX A

Section 1. Arbitration

(a) Any dispute, controversy or claim between the The Goldman Sachs Group, Inc and its subsidiaries and affiliates (the "Firm") and the Senior Executive Officer Grantee, arising out of or relating to or concerning this letter (this "Agreement"), shall be finally settled by arbitration in New York City before, and in accordance with the rules then obtaining of, the New York Stock Exchange, Inc. (the "NYSE") or, if the NYSE declines to arbitrate the matter in New York City (or if the matter otherwise is not arbitrable by it), the American Arbitration Association (the "AAA") in accordance with the commercial arbitration rules of the AAA. Prior to arbitration, all claims maintained by the Senior Executive Officer must first be submitted to the Compensation Committee (the "Committee") in accordance with claims procedures determined by the Committee. This Section 1 is subject to the provisions of paragraphs (b) and (c) below.

(b) The Firm and the Senior Executive Officer irrevocably submit to the exclusive jurisdiction of any state or federal court located in the city of New York over any suit, action or proceeding arising out of or relating to or concerning this Agreement that is not otherwise arbitrated or resolved according to paragraph (a) above. This includes any suit, action or proceeding to compel arbitration or to enforce an arbitration award. The Senior Executive Officer acknowledges that the forum designated by this paragraph (b) has a reasonable relation to this Agreement and to the Senior Executive Officer's relationship with the Firm. Notwithstanding the foregoing, nothing herein shall preclude the Firm from bringing any suit, action or proceeding in any other court for the purpose of enforcing the provisions of this Section 1 or otherwise.

(c) The agreement by the Senior Executive Officer and the Firm as to forum is independent of the law that may be applied in the suit, action or proceeding and the Senior Executive Officer and the Firm agree to such forum even if the forum may under applicable law choose to apply non-forum law. The Senior Executive Officer hereby (i) waives, to the fullest extent permitted by applicable law, any objection which the Senior Executive Officer may have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding in any court referred to in Section 1(b), (ii) undertakes not to commence any action arising out of or relating to or concerning this Agreement in any forum other than a forum described in this Section 1 and (iii) agrees that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any such suit, action or proceeding in any such court shall be conclusive and binding upon the Senior Executive Officer and the Firm.

(d) The Senior Executive Officer irrevocably appoints each General Counsel of GS Inc. as his or her agent for service of process in connection with any suit, action or proceeding arising out of or relating to or concerning this Agreement which is not arbitrated pursuant to the provisions of Section 1(a), who shall promptly advise the Senior Executive Officer of any such service of process.

(e) The Senior Executive Officer agrees to keep confidential the existence of, and any information concerning, a dispute, controversy or claim described in this Section 1, except that the Senior Executive Officer may disclose information concerning such dispute, controversy or claim to the arbitrator or court that is considering such dispute, controversy or claim or to his or her legal counsel (provided that such counsel

agrees not to disclose any such information other than as necessary to the prosecution or defense of the dispute, controversy or claim).

Section 2. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

October 28, 2008

Jon Winkelried,
c/o The Goldman Sachs Group, Inc.,
85 Broad Street,
New York, New York 10004.

Dear Jon,

The Goldman Sachs Group, Inc. ("GS Group") has entered into a letter agreement, dated October 26, 2008 (including the Securities Purchase Agreement – Standard Terms incorporated by reference therein, the "*Securities Purchase Agreement*"), with the United States Department of Treasury ("*Treasury*") as part of GS Group's participation in the Treasury's TARP Capital Purchase Program (the "*CPP*").

For GS Group to participate in the CPP and as a condition to the closing of the investment contemplated by the Securities Purchase Agreement, GS Group is required to establish specified standards for incentive compensation to its "senior executive officers" (as defined below), and to make changes to certain of its compensation arrangements. To comply with these requirements, and in consideration of the benefits that you will receive as a result of GS Group's participation in the CPP, you agree as follows:

- (1) *No Golden Parachute Payments.* GS Group is prohibiting any golden parachute payment (as defined below) to you during any "CPP Covered Period." A "CPP Covered Period" is any period during which (A) you are a senior executive officer and (B) Treasury holds an equity or debt position acquired from GS Group in the CPP.
- (2) *Recovery of Bonus and Incentive Compensation.* Any bonus or incentive compensation payments to you during a CPP Covered Period is subject to recovery or "clawback" by GS Group if the payments were based on materially inaccurate financial statements or any other materially inaccurate performance metric criteria.
- (3) *Compensation Program Amendments.* Each of GS Group's compensation, bonus, incentive and other benefit plans, programs, arrangements and agreements (including, without limitation, the Amended and Restated

Stock Incentive Plan and each RSU, stock option and other agreement thereunder, the Partner Compensation Plan, the Restricted Partner Compensation Plan and any document governing any employee special investment) (collectively, "*Benefit Plans*") applicable to you hereby is amended if and to the extent necessary to give effect to provisions (1) and (2) and as required under the Securities Purchase Agreement.

In addition, the CPP requires the Compensation Committee of GS Group's Board of Directors to review annually with GS Group's senior risk officers the features of the Benefit Plans to ensure that they do not encourage senior executive officers to take unnecessary and excessive risks that threaten the value of GS Group. If and to the extent that, as a result of any such review, the Compensation Committee determines any revision to any Benefit Plan is appropriate, you hereby agree to any such revisions and you agree to execute such additional documents as GS Group deems necessary or appropriate to effect such revisions.

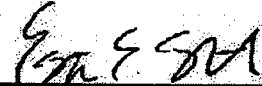
(4) *Definitions and Interpretation.* This letter shall be interpreted as follows:

- "Senior executive officer" means GS Group's "senior executive officers" as defined in subsection 111(b)(3) of EESA and the regulations governing the CPP.
- "Golden parachute payment" has the same meaning in subsection 111(b)(2)(C) of EESA.
- "EESA" means the Emergency Economic Stabilization Act of 2008 as implemented by guidance or regulation that has been issued and is in effect as of the "Closing Date" as defined in the Securities Purchase Agreement.
- "GS Group" includes any entities treated as a single employer with GS Group under 31 C.F.R. § 30.1(b) (as in effect on the Closing Date). (We note that you also are delivering a waiver pursuant to the Securities Purchase Agreement, and, as between GS Group and you, the term "employer" in that waiver will be deemed to mean GS Group as used in this letter).
- The term "CPP Covered Period" shall be limited by, and interpreted in a manner consistent with, 31 C.F.R. § 30.11 (as in effect on the Closing Date).
- Provisions (1) and (2) of this letter are intended to, and will be interpreted, administered and construed to, comply with Section 111 of EESA and the regulations thereunder and the regulations governing the CPP (as in effect on the Closing Date) and, to the maximum extent consistent with the preceding, to permit operation of the Benefit Plans in accordance with their terms before giving effect to this letter.


This letter is subject to the provisions of Annex A, which is part hereof.

Very truly yours,

THE GOLDMAN SACHS GROUP, INC.

Cur By: 
Name:
Title:

Intending to be legally bound, I agree
with and accept the foregoing terms.

Cur 
Jon Winkler

ANNEX A

Section 1. Arbitration

(a) Any dispute, controversy or claim between the The Goldman Sachs Group, Inc and its subsidiaries and affiliates (the "Firm") and the Senior Executive Officer Grantee, arising out of or relating to or concerning this letter (this "Agreement"), shall be finally settled by arbitration in New York City before, and in accordance with the rules then obtaining of, the New York Stock Exchange, Inc. (the "NYSE") or, if the NYSE declines to arbitrate the matter in New York City (or if the matter otherwise is not arbitrable by it), the American Arbitration Association (the "AAA") in accordance with the commercial arbitration rules of the AAA. Prior to arbitration, all claims maintained by the Senior Executive Officer must first be submitted to the Compensation Committee (the "Committee") in accordance with claims procedures determined by the Committee. This Section 1 is subject to the provisions of paragraphs (b) and (c) below.

(b) The Firm and the Senior Executive Officer irrevocably submit to the exclusive jurisdiction of any state or federal court located in the city of New York over any suit, action or proceeding arising out of or relating to or concerning this Agreement that is not otherwise arbitrated or resolved according to paragraph (a) above. This includes any suit, action or proceeding to compel arbitration or to enforce an arbitration award. The Senior Executive Officer acknowledges that the forum designated by this paragraph (b) has a reasonable relation to this Agreement and to the Senior Executive Officer's relationship with the Firm. Notwithstanding the foregoing, nothing herein shall preclude the Firm from bringing any suit, action or proceeding in any other court for the purpose of enforcing the provisions of this Section 1 or otherwise.

(c) The agreement by the Senior Executive Officer and the Firm as to forum is independent of the law that may be applied in the suit, action or proceeding and the Senior Executive Officer and the Firm agree to such forum even if the forum may under applicable law choose to apply non-forum law. The Senior Executive Officer hereby (i) waives, to the fullest extent permitted by applicable law, any objection which the Senior Executive Officer may have to personal jurisdiction or to the laying of venue of any such suit, action or proceeding in any court referred to in Section 1(b), (ii) undertakes not to commence any action arising out of or relating to or concerning this Agreement in any forum other than a forum described in this Section 1 and (iii) agrees that, to the fullest extent permitted by applicable law, a final and non-appealable judgment in any such suit, action or proceeding in any such court shall be conclusive and binding upon the Senior Executive Officer and the Firm.

(d) The Senior Executive Officer irrevocably appoints each General Counsel of GS Inc. as his or her agent for service of process in connection with any suit, action or proceeding arising out of or relating to or concerning this Agreement which is not arbitrated pursuant to the provisions of Section 1(a), who shall promptly advise the Senior Executive Officer of any such service of process.

(e) The Senior Executive Officer agrees to keep confidential the existence of, and any information concerning, a dispute, controversy or claim described in this Section 1, except that the Senior Executive Officer may disclose information concerning such dispute, controversy or claim to the arbitrator or court that is considering such dispute, controversy or claim or to his or her legal counsel (provided that such counsel

agrees not to disclose any such information other than as necessary to the prosecution or defense of the dispute, controversy or claim).

Section 2. Governing Law. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REGARD TO PRINCIPLES OF CONFLICT OF LAWS.

WAIVER

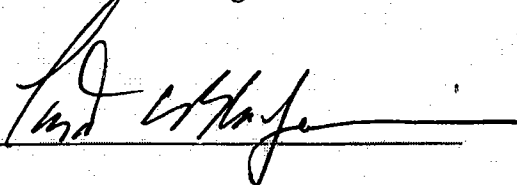
I, Lloyd C. Blankfein, an executive of The Goldman Sachs Group, Inc., hereby agree as follows:

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or my employer for any changes to my compensation or benefits that are required to comply with the regulation issued by the Department of the Treasury as published in the Federal Register on October 20, 2008.

I acknowledge that this regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements) that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the TARP Capital Purchase Program.

This waiver includes all claims I may have under the laws of the United States or any state related to the requirements imposed by the aforementioned regulation, including without limitation a claim for any compensation or other payments I would otherwise receive, any challenge to the process by which this regulation was adopted and any tort or constitutional claim about the effect of these regulations on my employment relationship.

Agreed and acknowledged as of October 28, 2008



A handwritten signature in black ink, appearing to read "Lloyd C. Blankfein", is written over a horizontal line.

WAIVER

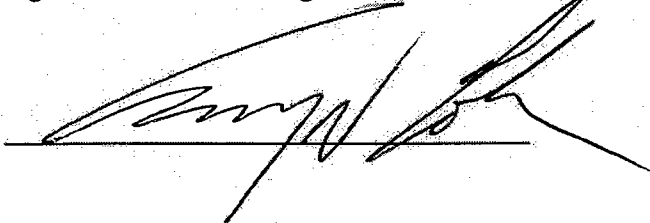
I, Gary D. Cohn, an executive of The Goldman Sachs Group, Inc., hereby agree as follows:

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or my employer for any changes to my compensation or benefits that are required to comply with the regulation issued by the Department of the Treasury as published in the Federal Register on October 20, 2008.

I acknowledge that this regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements) that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the TARP Capital Purchase Program.

This waiver includes all claims I may have under the laws of the United States or any state related to the requirements imposed by the aforementioned regulation, including without limitation a claim for any compensation or other payments I would otherwise receive, any challenge to the process by which this regulation was adopted and any tort or constitutional claim about the effect of these regulations on my employment relationship.

Agreed and acknowledged as of October 28, 2008

A handwritten signature in black ink, appearing to read "Gary D. Cohn", is written over a horizontal line. The signature is stylized and somewhat cursive.

WAIVER

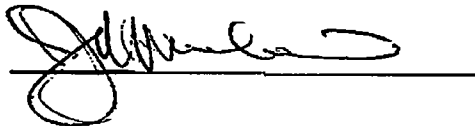
I. Jon Winkelried, an executive of The Goldman Sachs Group, Inc., hereby agree as follows:

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or my employer for any changes to my compensation or benefits that are required to comply with the regulation issued by the Department of the Treasury as published in the Federal Register on October 20, 2008.

I acknowledge that this regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements) that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the TARP Capital Purchase Program.

This waiver includes all claims I may have under the laws of the United States or any state related to the requirements imposed by the aforementioned regulation, including without limitation a claim for any compensation or other payments I would otherwise receive, any challenge to the process by which this regulation was adopted and any tort or constitutional claim about the effect of these regulations on my employment relationship.

Agreed and acknowledged as of October 28, 2008



WAIVER

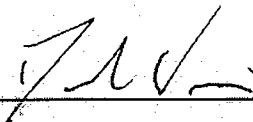
I, David A. Viniar, an executive of The Goldman Sachs Group, Inc., hereby agree as follows:

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or my employer for any changes to my compensation or benefits that are required to comply with the regulation issued by the Department of the Treasury as published in the Federal Register on October 20, 2008.

I acknowledge that this regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements) that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the TARP Capital Purchase Program.

This waiver includes all claims I may have under the laws of the United States or any state related to the requirements imposed by the aforementioned regulation, including without limitation a claim for any compensation or other payments I would otherwise receive, any challenge to the process by which this regulation was adopted and any tort or constitutional claim about the effect of these regulations on my employment relationship.

Agreed and acknowledged as of October 28, 2008



WAIVER

I, J. Michael Evans, an executive of The Goldman Sachs Group, Inc., hereby agree as follows:

In consideration for the benefits I will receive as a result of my employer's participation in the United States Department of the Treasury's TARP Capital Purchase Program, I hereby voluntarily waive any claim against the United States or my employer for any changes to my compensation or benefits that are required to comply with the regulation issued by the Department of the Treasury as published in the Federal Register on October 20, 2008.

I acknowledge that this regulation may require modification of the compensation, bonus, incentive and other benefit plans, arrangements, policies and agreements (including so-called "golden parachute" agreements) that I have with my employer or in which I participate as they relate to the period the United States holds any equity or debt securities of my employer acquired through the TARP Capital Purchase Program.

This waiver includes all claims I may have under the laws of the United States or any state related to the requirements imposed by the aforementioned regulation, including without limitation a claim for any compensation or other payments I would otherwise receive, any challenge to the process by which this regulation was adopted and any tort or constitutional claim about the effect of these regulations on my employment relationship.

Agreed and acknowledged as of October 28, 2008

