

## Depository Account Control Agreement

This Depository Account Control Agreement ("Agreement") dated as of August 17, 2010, is made by and among **The Bank of New York Mellon** ("Bank"), **Florida Housing Finance Corporation** ("Pledgor"), and **The United States Department of Treasury** ("Secured Party"). Pursuant to **that certain Commitment to Purchase Financial Instrument and HFA Participation Agreement dated June 23, 2010 (together with the Exhibits and Schedules attached thereto, and as the same may from time to time be amended, supplemented or substituted**, the "HFA Participation Agreement") among Secured Party, **Florida Housing Finance Corporation** (in such capacity, as the "HFA" as defined therein) and Pledgor (in such capacity, as the "Eligible Entity" as defined therein), the Pledgor has granted to Secured Party a security interest in the deposit account(s) at the Bank together with any investment account associated therewith (whether held by the Bank or an affiliate controlled by, controlling or under common control with the Bank) described on Exhibit A (collectively, the "Account") and the cash or investment property held in the Account and the proceeds of the Account. Bank hereby confirms its agreement to perform the depository services with respect to the Account in accordance with The Bank of New York Mellon Treasury Services Terms and Conditions currently in place between Bank and Pledgor ("Terms and Conditions") and this Agreement. Bank also hereby confirms that the Account is a demand deposit account maintained by Pledgor with Bank in Bank's capacity as a bank as each of those terms is defined in Article 9 of the Uniform Commercial Code in effect in the State of New York ("NYUCC"). Each party confirms that this Agreement constitutes an "authenticated record" and that this Agreement establishes Secured Party's "control" of the Account, as each of those terms is defined in Article 9 of the NYUCC.

To the extent that any amounts deposited in the Account are invested (as permitted by Paragraphs 1(d) and 15 hereinbelow, through an Automated Investment Service as provided under the Terms and Conditions, or otherwise, the Bank confirms on behalf of itself and any affiliate holding such investments, that the Bank and such affiliate constitute a "securities intermediary", all investments held in such account constitute "financial assets" and that this Agreement establishes Secured Party's "control" of such account, as each of those terms are defined in Article 8 of the NYUCC.

1. This Agreement shall be absolute and continuing and shall remain in effect until terminated in accordance with the provisions of this Agreement. Instructions directing disposition of funds will apply only to available funds. Secured Party hereby authorizes and directs Bank as follows:
  - (a) Until Bank's receipt of a Notice of Exclusive Control from the Secured Party ("Notice of Exclusive Control"), Pledgor is permitted to access the Account and all available funds on deposit therein and to make withdrawals, transfers or other dispositions of funds at Pledgor's discretion, provided that Pledgor's instructions are reasonable and in accordance with Terms and Conditions. Notice of Exclusive Control **shall be in the form of Exhibit B hereto, and when given shall constitute an entitlement order in favor of Secured Party as entitlement holder.**
  - (b) Upon Bank's receipt of a Notice of Exclusive Control, Pledgor shall not be permitted to access the Account or the funds therein and the Account shall be maintained and all available funds transferred pursuant solely to Secured Party's instructions, provided that Secured Party's instructions are in accordance with this Agreement and, to the extent not inconsistent herewith, the Terms and Conditions. Bank will comply with a Notice of Exclusive Control without further consent by Pledgor or any other person.
  - (c) Bank shall furnish Pledgor and Secured Party with advices of transactions affecting the Account and monthly Account statements. Pledgor and Secured Party may elect to receive advices and statements electronically through the Internet to an email address specified by it for such purpose. By electing to use the Internet for this purpose, Pledgor and Secured

Party acknowledge that such transmissions are not encrypted and therefore are insecure. Pledgor and Secured Party further acknowledge that there are other risks inherent in communicating through the Internet such as the possibility of virus contamination and disruptions in service, and agrees that Bank shall not be responsible for any loss, damage or expense suffered or incurred by Pledgor, Secured Party, or any person claiming by or through Pledgor or Secured Party as a result of the use of such methods; and provided, further, Bank and Pledgor acknowledge and agree that Secured Party shall not be responsible for any loss, damage or expense suffered or incurred by Bank, Pledgor or any other person as a result of the use of such methods.

- (d) Bank may permit the Pledgor to invest in Bank's available investment products. However, Bank is not at any time under any duty to monitor the value of any funds in the Account or whether the funds are of a type required to be held in the Account, or to supervise the investment of, or to advise or make any recommendation for the purchase, sale, retention or disposition of any funds.
2. Pledgor and Secured Party agree that Bank may debit the Account for any and all items (including, but not limited to, checks, drafts, Automatic Clearinghouse (ACH) and foreign exchange transactions originated or wire transfers including value-dated wire transfers) presented, originated or issued and pending settlement at the time a Notice of Exclusive Control is received (the "Settlement Items"). Available funds will be transferred to Secured Party upon Bank's receipt of a Notice of Exclusive Control only after the Settlement Items have been paid from the Account.
  3. All fees and expenses for the maintenance and provision of services in conjunction with the Account (the "Fees"), held in the name of Pledgor are the responsibility of Pledgor. Bank is authorized to charge the Account in the amount of such Fees; provided, however, the parties agree that, prior to exercising its rights under this Paragraph 3, Bank shall have invoiced Pledgor for such amounts, and such invoice shall not have been paid within thirty (30) days of the date thereof. In the event Bank is unable to obtain sufficient funds from such charges to cover such Fees, Pledgor shall indemnify Bank for all then-due Fees that have not been paid.
  4. Pledgor and Secured Party agree that Bank may debit the Account for any items (including, but not limited to, checks, drafts, Automatic Clearinghouse (ACH) credits or wire transfers or other electronic transfers or credits) deposited or credited to the Account which may be returned or otherwise not collected and for all charges, fees, commissions and expenses incurred by Bank in providing services or otherwise in connection herewith (the "Returned Items"); Bank may charge the Account as permitted herein at such times as are in accordance with Bank's customary practices for the chargeback of Returned Items. In the event Bank is unable to obtain sufficient funds from such charges to cover Returned Items, Pledgor shall indemnify Bank for all amounts related to the Returned Items incurred by Bank.
  5. Notwithstanding any other provision of this Agreement, unless Bank is grossly negligent or engages in willful misconduct in its performance or non-performance in connection with this Agreement and the Account, Pledgor shall indemnify and hold Bank harmless from any claims, damages, losses or expenses incurred by the Bank for performing its services hereunder; in the event Bank breaches the standard of care set forth in this paragraph, Pledgor and Secured Party expressly agree that Bank's liability under this Agreement shall be limited to damages directly caused by such breach and in no event shall Bank be liable for any incidental, indirect, punitive or consequential damages or attorneys' fees whatsoever.
  6. Notwithstanding any other provision of this Agreement, Bank shall not be liable for any failure, inability to perform, or delay in performance hereunder, if such failure, inability, or delay is due to acts of God, war, civil commotion, governmental action, fire, explosion, strikes, other industrial disturbances, equipment malfunction, action, non-action or delayed action on the part of the

Pledgor or Secured Party or any other entity or any other events or circumstances that are beyond Bank's reasonable control.

7. This Agreement may not be amended, modified or supplemented except in writing executed and delivered by all parties.
8. This Agreement shall terminate upon (a) Bank's receipt of Written Instructions from Secured Party expressly stating that Secured Party no longer claims any security interest in the Account and Bank's subsequent transfer of the cash and investments in the Account pursuant to Pledgor's Written Instructions, (b) transfer of the cash and investments in the Account to Secured Party subsequent to Bank's receipt of a Notice of Exclusive Control, or (c) Bank's receipt of joint Written Instructions from Pledgor and Secured Party expressly stating that this Agreement is to be terminated on the date stated therein and directing transfer of the cash and investments in the Account. Bank may terminate this Agreement upon thirty (30) days written notice to the Secured Party and the Pledgor with or without cause. Pledgor's obligations to Bank under this Agreement to indemnify, hold harmless and pay amounts owed shall survive termination of this Agreement. Except as otherwise provided herein, all obligations of the parties to each other hereunder shall cease upon termination of this Agreement and transfer of the cash and investments to the party or parties entitled thereto.
9. This Agreement shall be governed by and construed in accordance with the laws of the State of New York (without regard to the principles of conflicts of laws thereof), except that: (1) the payment of checks and other items and other issues relating to the operations of the Account shall be governed by the laws of the state where the Account is located and (2) the state where the Account is located shall be deemed to be the "bank's jurisdiction"; provided, however, with respect to the perfection of security interests in the Account, the "bank's jurisdiction" shall be deemed to be the State of New York and New York law and the UCC shall govern and control.
10. The Terms and Conditions are incorporated herein by reference. To the extent there is a conflict between this Agreement and the Terms and Conditions, this Agreement shall take precedence.
11. Any notice permitted or required hereunder shall be in writing and shall be deemed to have been duly given if sent by personal delivery, express or first class mail, or facsimile addressed, in the case of notice to Bank to:

The Bank of New York Mellon  
Contract Fulfillment Manager  
BNY Mellon Client Service Center  
500 Ross Street, Room 1380  
Pittsburgh, PA 15262  
Phone: (412) 234-4172  
Fax: (412) 236-7419

With a copy to:

The Bank of New York Mellon  
101 Barclay Street, 11 West  
New York, NY 10286  
Attn: TARP Business Group  
Phone: (215) 815-5922  
Fax: (215) 815-6059

and in the case of notice to the Pledgor, to:

Florida Housing Finance Corporation  
Attn: Corporation Clerk  
227 North Bronough Street, Suite 5000  
Tallahassee, FL 32327  
Phone: (850) 488-4197  
Fax: (850) 488-9809


and in the case of notice to the Secured Party, to:

Office of Financial Security  
Department of Treasury  
1500 Pennsylvania Avenue, NW  
Washington, DC 20220  
Email: [OFSCChiefCounselNotices@do.treas.gov](mailto:OFSCChiefCounselNotices@do.treas.gov)  
[HFAInnovationFund@do.treas.gov](mailto:HFAInnovationFund@do.treas.gov)

- or to such other address or addresses as the party to receive notice may provide in writing to the other party in accordance with this paragraph. Bank shall have no duty or obligation to inquire into the authenticity or effectiveness of any such notice received pursuant to this Agreement.
12. There are no third party beneficiaries to this Agreement. This Agreement is for the sole benefit of Secured Party, Pledgor and Bank and their respective successors. Secured Party shall provide prior written notice to Bank if Secured Party assigns its rights under this Agreement.
  13. This Agreement shall become effective immediately upon its execution by all parties hereto. This Agreement may be executed in counterparts, all of which shall constitute one and the same instrument, and any party may execute this Agreement by signing and delivering one or more counterparts.
  14. iTelecash Read-Only Access. Secured Party shall, from time to time, designate one or more persons to be granted "read-only" access to the iTelecash system (or any successor payments system) to permit monitoring of Pledgor's transaction activity within the Account, and Bank shall provide such designees "read-only" access to the Account. iTelecash is described in the Electronic Banking section of the Terms and Conditions. Any fees and expenses related to this iTelecash access will be part of the Fees and are the responsibility of the Pledgor. Notwithstanding any provision of the Terms and Conditions to the contrary, Bank shall not cancel any user ID/password or authentication device granted to Secured Party or its designees except upon reasonable notice to Secured Party.
  15. **Pledgor shall not provide any oral or written instruction to invest in any funds except for investments in Eligible Investments as described on Exhibit C attached hereto. Bank shall not execute any oral or written instructions to invest funds except for such investments in Eligible Investments.**

[Signatures Follow]

**FLORIDA HOUSING FINANCE CORPORATION**

By:   
Name: Steve Anger  
Title: Executive Director

**UNITED STATES DEPARTMENT OF THE  
TREASURY**

By: \_\_\_\_\_  
Name: Herbert M. Allison, Jr.  
Title: Assistant Secretary for Financial Stability

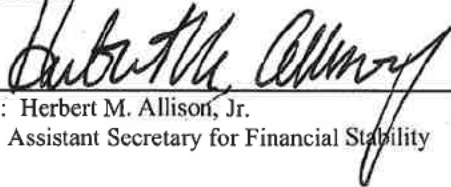
**THE BANK OF NEW YORK MELLON**

By: \_\_\_\_\_  
Name:  
Title:

**FLORIDA HOUSING FINANCE CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**UNITED STATES DEPARTMENT OF THE  
TREASURY**

By:   
Name: Herbert M. Allison, Jr.  
Title: Assistant Secretary for Financial Stability

**THE BANK OF NEW YORK MELLON**

By: \_\_\_\_\_  
Name:  
Title:

**FLORIDA HOUSING FINANCE CORPORATION**

By: \_\_\_\_\_  
Name:  
Title:

**UNITED STATES DEPARTMENT OF THE  
TREASURY**

By: \_\_\_\_\_  
Name: Herbert M. Allison, Jr.  
Title: Assistant Secretary for Financial Stability

**THE BANK OF NEW YORK MELLON**

By: Thomas M. Horgan  
Name: Thomas M. Horgan  
Title: Vice President

EXHIBIT A

ACCOUNT DESCRIPTION

Bank Name: The Bank of New York Mellon  
ABA Number: [REDACTED]  
Account Number: [REDACTED]  
Account Name: Florida Housing Finance Corporation



EXHIBIT B

FORM OF NOTICE OF EXCLUSIVE CONTROL

Date:

To: THE BANK OF NEW YORK MELLON  
BNY Mellon Client Service Center  
500 Ross Street, Room 1380  
Pittsburgh, PA 15262  
Attention: Contract Fulfillment Manager  
Fax: 412-236-7419

Re: Depository Account Control Agreement (as amended or supplemented, the "Agreement") dated as of \_\_\_\_\_, 2010 among \_\_\_\_\_ ("Pledgor"), the United States Department of Treasury ("Secured Party") and The Bank of New York Mellon ("Bank")

Dear Sir or Madam:

(Note: Capitalized terms used herein without definition shall have the meanings assigned to them in the referenced Agreement.)

Notice is hereby given to you under the Agreement that an Event of Default has occurred under the HFA Participation Agreement and/or the Financial Instrument by Pledgor to Secured Party thereunder and is continuing.

You are hereby directed to:

- 1) immediately cease complying with written or oral instructions concerning the Account originated by Pledgor, whether by check, draft, ACH payment, wire transfer or otherwise.
- 2) immediately cease making any distributions from the Account, except with the prior Written Instructions of Secured Party; and
- 3) not less than thirty (30) nor more than forty-five (45) days after your receipt hereof, and unless otherwise enjoined by an order of a court which purports to have jurisdiction over the Account, transfer the proceeds thereof and all interest and other income thereon to the following account by wire transfer:

|                    |                                    |
|--------------------|------------------------------------|
| Amount:            | The entire proceeds of the Account |
| (indicate which is | or                                 |
| Applicable)        | \$ _____                           |

Wire to:

Account Number:

Bank: Federal Reserve Bank of New York

ABA Number:

Reference:

UNITED STATES DEPARTMENT OF THE TREASURY

By: \_\_\_\_\_  
Name:  
Title:

EXHIBIT C

ELIGIBLE INVESTMENTS

- 1) **Cash;**
- 2) **Deposits in a financial institution the deposits of which are insured by the Federal Deposit Insurance Corporation (or any successor agency of the U.S. Government);**
- 3) **United States Treasury securities with maturities of not more than ninety (90) days;**
- 4) **Dreyfus Treasury Cash Management Fund;\***
- 5) **Fidelity Treasury Portfolio;\***
- 6) **other money market mutual funds that (a) are registered with the SEC and regulated under Rule 2a-7 promulgated under the Investment Company Act of 1940 and (b) invested exclusively in direct obligations of the United States of America or obligations the prompt payment of the principal of and interest on which is unconditionally guaranteed by the United States of America.**

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\* Neither Secured Party nor Bank make any recommendation, representations, or guarantees concerning the performance of any Investment Option or its suitability to Pledgor's needs or requirements, or conformity with any investment limitations applicable to Pledgor.