

## COLLATERAL ACCOUNT CONTROL AGREEMENT

AGREEMENT, dated as of March 3, 2009 (the “**Agreement**”) between TALF LLC (“**Pledgor**”), The Bank of New York Mellon as collateral agent (in such capacity, the “**Secured Party**”) and The Bank of New York Mellon as securities intermediary (in such capacity, the “**Securities Intermediary**”).

### WITNESSETH:

WHEREAS, Secured Party and Pledgor have entered into the Security and Intercreditor Agreement dated as of March 3, 2009 (the “**Security Agreement**”) by and among the Pledgor, Federal Reserve Bank of New York as senior lender and controlling party, United States Department of the Treasury as subordinated lender and The Bank of New York Mellon as collateral agent, pursuant to which Pledgor has agreed to pledge to Secured Party the Collateral (as defined below) in order to secure the repayment of Pledgor’s obligations to certain parties as set forth under the Security Agreement; and

WHEREAS, Secured Party and Pledgor have requested Securities Intermediary to hold the Collateral and to perform certain other functions as more fully described herein; and

WHEREAS, Securities Intermediary has agreed to act on behalf of Secured Party and Pledgor in respect of Collateral delivered to Securities Intermediary by Pledgor for the benefit of the Secured Party, subject to the terms hereof;

NOW THEREFORE, in consideration of the mutual promises set forth hereafter, the Parties agree as follows:

### ARTICLE I DEFINITIONS

Whenever used in this Agreement, the following words shall have the meanings set forth below:

1. “**Accounts**” shall mean the USD account, number \_\_\_\_\_ which is a securities account and such other securities accounts in the name of the Pledgor established and maintained by the Securities Intermediary in which Collateral shall be deposited, or caused to be deposited, by Pledgor and pledged to Secured Party, and any sub-accounts thereunder.

2. “**Collateral**” shall mean each item of property and all proceeds thereof held in the Accounts.

3. “**Depository**” shall mean, for purposes of this Agreement only, the Federal Reserve Bank of New York for receiving and delivering securities maintained by The Fedwire Securities Service, The Depository Trust Company

3. “**Depository**” shall mean, for purposes of this Agreement only, the Federal Reserve Bank of New York for receiving and delivering securities maintained by The Fedwire Securities Service, The Depository Trust Company and any other clearing corporation within the meaning of Section 8-102 of the UCC or otherwise authorized to act as a securities depository or clearing agency, and their respective successors and nominees.

4. “**Party**” means a party to this Agreement.

5. “**UCC**” shall mean the Uniform Commercial Code as in effect in the State of New York.

6. “**Written Instructions**” shall mean written communications received by Securities Intermediary by S.W.I.F.T., tested telex, email, letter, or other method or system specified by Securities Intermediary as available for use in connection with the services hereunder.

The terms “**Managing Member**”, “**Person**” and “**Waterfall**” are defined in the Security Agreement.

The terms “**entitlement holder**”, “**entitlement order**”, “**financial asset**”, “**investment property**”, “**proceeds**”, “**security**”, “**securities account**” and “**securities intermediary**” shall have the meanings set forth in Articles 8 and 9 of the UCC.

## **ARTICLE II APPOINTMENT AND STATUS OF SECURITIES INTERMEDIARY; ACCOUNTS**

1. Appointment; Identification of Collateral. Secured Party and Pledgor each hereby appoint Securities Intermediary to perform its duties as hereinafter set forth and authorizes Securities Intermediary to hold Collateral in the Accounts in registered form in its name or the name of its nominees. Parties agree that all financial assets (except cash) in the Accounts will be registered in the name of the Securities Intermediary or the name of its nominees and no financial asset in the Accounts will be registered in the name of the Pledgor, payable to the order of the Pledgor or specially indorsed to the Pledgor unless such financial asset has been further indorsed to the Securities Intermediary or in blank. Securities Intermediary hereby accepts such appointment and agrees to establish and maintain the Accounts and appropriate records identifying the Collateral in the Accounts as pledged by Pledgor to Secured Party. Pledgor hereby authorizes Securities Intermediary to comply with all Written Instructions, including entitlement orders, originated by Secured Party with respect to the Collateral without further consent or direction from Pledgor or any other Party. The Parties hereby agree that the Accounts are and will remain securities accounts as defined in Section 8-501 of the UCC and the Secured Party is an entitlement holder with respect to the Accounts.

2. Status of Securities Intermediary and “Financial Asset” Election. The Parties agree that Securities Intermediary is a securities intermediary, and intend that each item of property (whether investment property, financial asset, security, instrument, cash or other property) held in the Accounts shall be treated as a “**financial asset**” within the meaning of Sections 8-102(a)(9) and 8-103 of the UCC.

3. Use of Depositories. Secured Party and Pledgor hereby authorize Securities Intermediary to utilize Depositories to the extent possible in connection with its performance hereunder. Collateral held by Securities Intermediary in or maintained by a Depository will be held subject to the regulations, rules, terms and conditions applicable to such Depository. Where Collateral is held in or maintained by a Depository, Securities Intermediary shall identify on its records as belonging to Pledgor and pledged to Secured Party a quantity of securities as part of a fungible bulk of securities held in Securities Intermediary’s account at such Depository. Securities deposited in or maintained by a Depository will be represented in accounts which include only assets held by Securities Intermediary for its customers.

4. Entitlement Orders. Securities Intermediary agrees to comply with any “entitlement order” (as defined in Section 8 102 of the UCC) originated by Secured Party and relating to the Accounts or any financial asset credited thereto without further consent by Pledgor or any other person. Pledgor consents to the foregoing agreement by the Securities Intermediary.

### **ARTICLE III COLLATERAL SERVICES**

1. Transfers; Substitutions. The Accounts shall be operated solely on the Written Instructions of Secured Party. All transfers of Collateral into or out of the Accounts shall be made free of payment. Securities Intermediary shall not follow any Written Instructions of Pledgor and shall not permit any withdrawal of any Collateral from the Accounts unless, in each case, it has received Written Instructions from Secured Party permitting, as applicable, Securities Intermediary to follow such Written Instructions of Pledgor or the item(s) of Collateral to be transferred from the Accounts.

2. Payment of Proceeds. Until Securities Intermediary receives a Written Instruction from Secured Party to the contrary, Securities Intermediary shall credit to the Accounts all proceeds, including without limitation all interest and principal payments, received by it with respect to the Collateral.

3. No Lien or Pledge by Securities Intermediary. Securities Intermediary agrees that the Accounts and Collateral in the Accounts shall not be subject to any security interest, lien or right of set-off by Securities Intermediary or any third party claiming through Securities Intermediary and Securities Intermediary shall not pledge, encumber, hypothecate, transfer, dispose of, or

otherwise grant any third party an interest in, Collateral, except to the extent set forth in the Security Agreement.

4. Notice of Adverse Claims. Except for the claims and interests of Secured Party and Pledgor, Securities Intermediary does not know of any claim to, or interest in, the Accounts, any financial asset credited thereto or any security entitlement in respect thereof. Upon receipt of written notice of any lien, encumbrance or adverse claim against the Accounts or any portion of the Collateral carried therein, Securities Intermediary shall use reasonable efforts to notify Secured Party and Pledgor as promptly as practicable under the circumstances.

#### **ARTICLE IV GENERAL TERMS AND CONDITIONS**

1. Standard of Care; Indemnification. (a) Except as otherwise expressly provided herein, and provided that the following shall not be construed to relieve Securities Intermediary from its obligations to act in accordance with Written Instructions, Securities Intermediary shall not be liable for any costs, expenses, damages, liabilities or claims, including attorney's fees (collectively, "**Losses**") incurred by or asserted against Pledgor or Secured Party arising out of or in connection with the performance by Securities Intermediary of its obligations under this Agreement or the Security Agreement, except those Losses arising out of the negligence, fraud, bad faith or willful misconduct of Securities Intermediary. Securities Intermediary shall have no obligation to Pledgor hereunder or in connection with the performance of its obligations under the Security Agreement for Losses which are sustained or incurred by reason of any action or inaction by any Depository. In no event shall Securities Intermediary be liable for special, indirect or consequential damages, or lost profits or loss of business, arising in connection with this Agreement.

(b) Pledgor agrees to indemnify Securities Intermediary and hold Securities Intermediary harmless from and against any and all Losses sustained or incurred by or asserted against Securities Intermediary by reason of or as a result of any action or inaction, or arising out of Securities Intermediary's performance hereunder or under the Security Agreement, including reasonable fees and expenses of counsel incurred by Securities Intermediary in a successful defense of claims by Pledgor or Secured Party; *provided* that the foregoing indemnity shall not apply (i) to any Losses arising out of the negligence, fraud, bad faith or willful misconduct of Securities Intermediary, (ii) if Securities Intermediary does not provide reasonably prompt notice to Pledgor of any claim for which indemnification is sought, or (iii) if Securities Intermediary makes any admission of liability or incurs any significant expense after receiving written notice of a claim, or agrees to any settlement without the prior written consent of Pledgor, which consent shall not be unreasonably withheld. Pledgor may, in its sole discretion, and at its expense, control the defense of the claim including,

without limitation, designating counsel for any indemnified party to control all negotiations, litigation, arbitration, settlements, compromises and appeals of any claim; *provided*, that (i) if in the reasonable determination of Securities Intermediary there exists a conflict of interest by reason of common representation, Securities Intermediary shall have the right to appoint separate counsel, (ii) Securities Intermediary may not agree to any settlement involving any indemnified party that contains any element other than the payment of money and complete indemnification of such party without the prior written consent of the affected person and (iii) Securities Intermediary shall engage and pay the reasonable expenses of separate counsel for the indemnified party to the extent that the interests of such party are in conflict with those of Pledgor. This indemnity shall be a continuing obligation of Pledgor, its successors and assigns, notwithstanding the termination of this Agreement or the Security Agreement. Without limiting the foregoing, Securities Intermediary shall be indemnified by Pledgor (to the extent set forth in the preceding sentence) with respect to any action taken in response to any Written Instruction actually received by it and reasonably believed to have been duly authorized and delivered by Pledgor.

(c) Securities Intermediary hereby agrees that any indemnity due and payable by Pledgor to the Securities Intermediary under this Agreement (i) shall be paid in accordance with the Waterfall as set forth in the Security Agreement and (ii) shall be exercisable solely against the Pledgor and in no event, against the Managing Member.

2. No Obligation Regarding Quality of Collateral. Without limiting the generality of the foregoing, Securities Intermediary shall be under no obligation to inquire into, and shall not be liable for, any Losses incurred by Pledgor, Secured Party or any other person as a result of the receipt or acceptance of fraudulent, forged or invalid Collateral, or Collateral which otherwise is not freely transferable or deliverable without encumbrance in any relevant market.

3. No Responsibility Concerning Security Agreement. Pledgor and Secured Party hereby agree that, notwithstanding references to the Security Agreement in this Agreement, Securities Intermediary has no interest in, and no duty, responsibility or obligation with respect to, the Security Agreement (including without limitation, no duty, responsibility or obligation to monitor Pledgor's or Secured Party's compliance with the Security Agreement or to know the terms of the Security Agreement).

4. No Duty of Oversight. Securities Intermediary is not at any time under any duty to monitor the value of any Collateral in the Accounts or whether the Collateral is of a type required to be held in the Accounts, or to supervise the investment of, or to advise or make any recommendation for the purchase, sale, retention or disposition of any Collateral.

5. Advice of Counsel. Securities Intermediary may, with respect to questions of law, obtain the advice of counsel and shall be fully protected with respect to anything done or omitted by it in good faith in conformity with such advice.

6. No Collection Obligations. Securities Intermediary shall be under no obligation to take action to collect any amount payable on Collateral in default, or if payment is refused after due demand and presentment.

7. [Reserved]

8. Effectiveness of Written Instructions; Reliance; Risk Acknowledgements; Additional Terms. Securities Intermediary shall be entitled to rely upon any Written Instructions received by Securities Intermediary and reasonably believed by Securities Intermediary to be duly authorized and delivered.

9. Recording of Telephone Conversations. The Parties acknowledge that telephone conversations made in connection with this Agreement may be recorded.

10. Inspection. Securities Intermediary agrees to afford Pledgor and Secured Party, and their respective authorized agents reasonable access during normal business hours to make examinations of the Records (as defined below) and to cause its personnel to assist in any such examinations of the Records, make extracts and allow copies of the Records to be made. Such examinations will be conducted in a manner which does not unreasonably interfere with the normal operations or employee relations of Securities Intermediary. Securities Intermediary shall, at the request of Pledgor or Secured Party, supply Pledgor or Secured Party with a tabulation of securities owned by the Borrower and held by Securities Intermediary in connection with this Agreement and the Security Agreement and shall, when requested to do so by Pledgor or Secured Party, include certificate or CUSIP numbers in such tabulations. In addition, at the request of Pledgor or Secured Party, Securities Intermediary will meet with one or more of Pledgor's directors or designated staff at a mutually agreeable time to discuss matters that fall within the scope of this engagement. Notwithstanding the foregoing, but subject to the proviso at the end of this sentence, Securities Intermediary shall not be required to disclose (and agrees not to disclose or to permit the disclosure of) any information to the extent setting forth the unredacted identities of the borrowers of TALF Loans pursuant to this paragraph without the consent of the Managing Member; *provided* that Securities Intermediary may, to the extent it is authorized to do so under Section 11 hereof, disclose any information referred to in this sentence to the Board of Governors of the Federal Reserve System and any other U.S. regulatory authorities with direct supervisory authority over it.

(b) Except as otherwise directed by Pledgor or Secured Party, for the term of this Agreement, Securities Intermediary shall keep and retain and make easily accessible all information, materials and records (collectively, “**Records**”) in whatever format which it has or which comes into its possession in connection with the transaction and the services provided under this Agreement, in each case to the extent consistent with Securities Intermediary’s internal records and maintenance and records retention policy; *provided* that prior to any destruction of any Records by Securities Intermediary in accordance with such policy, Securities Intermediary shall notify Pledgor and Secured Party and provide Pledgor and Secured Party with an opportunity to take possession of such Records from Securities Intermediary. Upon the termination of this Agreement or its services hereunder, Pledgor and Secured Party shall, in good faith, agree on the timing and mechanism for transferring all Records to Pledgor. In transferring such Records, Securities Intermediary shall provide a certificate of an officer certifying as to whether (a) it has kept and retained the Records in accordance with the requirements set forth herein and (b) the Records being transferred represent all of the Records that have not been previously delivered or destroyed in compliance with this paragraph. Notwithstanding the foregoing, Securities Intermediary may make and retain copies of Records to satisfy existing internal audit, compliance or record retention requirements; *provided* that the certificate of the officer includes information as to the copies of Records that it is retaining.

11. Confidentiality. Secured Party and Securities Intermediary agree to keep confidential all nonpublic information provided to them by the Borrower (or the Administrator on behalf of the Borrower), the Collateral Agent, the Investment Manager, the Controlling Party or any other Person pursuant to or in connection with this Agreement, the other Transaction Documents or the MLSA in accordance with Section 19 of the Security Agreement.

12. Force Majeure. Securities Intermediary shall be responsible for maintaining and preserving its operations, facilities and systems (including its computer and communication systems) in a manner consistent with commercial and supervisory standards prevalent in its industry. Securities Intermediary agrees that it shall enter into and shall maintain in effect, at all times during the term of this Agreement, with appropriate parties one or more agreements making reasonable provision for (i) periodic back-up of computer files and data with respect to any accounts held by it and (ii) emergency use of electronic data processing equipment to provide services under this Agreement. So long as Securities Intermediary shall have complied with the foregoing maintenance or preservation requirements and provided that any delay or failure to take such action as may be required under this Agreement could not be prevented by the exercise of reasonable diligence by Securities Intermediary, Securities Intermediary shall not be liable for any delay or failure to take any action as may be required under this Agreement to the extent that any such delay or failure is caused, directly or indirectly, by circumstances beyond its reasonable control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or

military disturbances; sabotage; epidemics; riots; interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that Securities Intermediary shall use its best efforts to resume performance as soon as practicable under the circumstances. Securities Intermediary shall provide Pledgor with written notice of failure or delay to take action as may be required under this Agreement.

13. Pricing Services. Securities Intermediary may, as an accommodation, provide pricing or other information services to Pledgor and/or Secured Party in connection with this Agreement. Securities Intermediary may utilize any vendor (including securities brokers and dealers) believed by it to be reliable to provide such information. Under no circumstances shall Securities Intermediary be liable for any loss, damage or expense suffered or incurred by Pledgor or Secured Party as a result of errors or omissions with respect to any pricing or other information utilized by Securities Intermediary hereunder.

14. No Implied Duties. Securities Intermediary shall have no duties or responsibilities whatsoever except such duties and responsibilities as are specifically set forth in this Agreement, and no covenant or obligation shall be implied against Securities Intermediary in connection with this Agreement. The Securities Intermediary has not entered into, and until the termination of this Agreement will not enter into, any agreement with any person (other than the Collateral Agent) relating to the Accounts and/or any financial asset held thereto pursuant to which it has agreed, or will agree, to comply with the entitlement orders of such person.

## **ARTICLE V MISCELLANEOUS**

1. Termination. This Agreement shall terminate upon not less than ninety (90) days prior written notice of termination from Pledgor, Secured Party or Securities Intermediary to the other parties; *provided* that no termination of this Agreement by Securities Intermediary shall be effective until Pledgor shall have appointed a successor securities intermediary; *provided, further* that if Pledgor shall fail to appoint a successor securities intermediary within ninety (90) days after notice of termination from Securities Intermediary, then Securities Intermediary may petition any court of competent jurisdiction for the appointment of a successor securities intermediary; *provided, further* that Pledgor may at any time (i) substitute another bank or trust company for Securities Intermediary by giving notice as described below to Securities Intermediary, or (ii) immediately terminate this Agreement in the event of the appointment of a conservator or receiver for Securities Intermediary or upon the happening of a like event at the direction of an appropriate regulatory agency or court of competent jurisdiction.



2. Notices. (a) Any notice or other instrument in writing, authorized or required by this Agreement to be given to Securities Intermediary, shall be sufficiently given if addressed to Securities Intermediary and received by it at its offices at 101 Barclay Street, 4E, New York, New York 10286, or at such other place as Securities Intermediary may from time to time designate in writing.

(b) Any notice or other instrument in writing, authorized or required by this Agreement to be given to Secured Party shall be sufficiently given if addressed to Secured Party and received by it at its offices at the address provided below, or at such other place as Secured Party may from time to time designate in writing.

(c) Any notice or other instrument in writing, authorized or required by this Agreement to be given to Pledgor shall be sufficiently given if addressed to Pledgor and received by it at its offices at the address provided below, or at such other place as Pledgor may from time to time designate in writing.

3. Cumulative Rights; No Waiver. Each and every right granted to Securities Intermediary hereunder or under any other document delivered hereunder or in connection herewith, or allowed it by law or equity, shall be cumulative and may be exercised from time to time. No failure on the part of Securities Intermediary to exercise, and no delay in exercising, any right will operate as a waiver thereof, nor will any single or partial exercise by Securities Intermediary of any right preclude any other future exercise thereof or the exercise of any other right.

4. Severability; Amendments; Assignment. In case any provision in or obligation under this Agreement shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected thereby. This Agreement may not be amended or modified in any manner except by a written agreement executed by the Parties. This Agreement shall extend to and shall be binding upon the Parties, and their respective successors and assigns; *provided* that this Agreement shall not be assignable by any Party without the prior written consent of the other Parties.

5. Governing Law; Jurisdiction; Jury Trial Waiver; Waiver of Immunity. (a) This Agreement shall be construed in accordance with the laws of the State of New York. In connections with its activities hereunder (including as a securities intermediary), the State of New York shall be deemed to be Securities Intermediary's jurisdiction for purposes of the UCC (including, without limitation, Section 8-110 thereof).

(b) Each party hereby irrevocably and unconditionally:

(i) submits for itself and its property in any legal action or proceeding relating to this Agreement, or for recognition and enforcement of any judgment in respect thereof, to the exclusive jurisdiction of the courts of the United States for the Southern District of New York, and appellate courts thereof; *provided* that notwithstanding the foregoing, if there is no basis for federal jurisdiction in respect of any such legal action or proceeding or recognition and enforcement action, then each party submits for itself and its property in any such legal action or proceeding or recognition and enforcement action to the exclusive jurisdiction of the courts of the State of New York located in the Borough of Manhattan in New York City, and appellate courts thereof;

(ii) consents that any such action or proceeding may be brought only in such courts and waives, to the maximum extent not prohibited by law, any objection that it may now or hereafter have to the venue of any such action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same;

(iii) agrees that service of process in any such action or proceeding may be effected by mailing a copy thereof by registered or certified mail (or any substantially similar form of mail), postage prepaid return receipt requested, to Pledgor, Secured Party or Securities Intermediary, as the case may, at its address in each case as set forth in Article V, Section 2 or at such other address of which the parties hereto shall have been notified pursuant thereto;

(iv) agrees that nothing herein shall affect the right to effect service of process in any other manner permitted by law;

(v) agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in another jurisdiction by suit on the judgment or in any other matter provided by law;

(vi) waives, to the maximum extent not prohibited by law, any right it may have to claim or recover in any legal action or proceeding any special, indirect, exemplary, punitive or consequential damages of any kind whatsoever (including for lost profits); and

(vii) waives trial by jury in any legal action, proceeding, suit, counterclaim or cross claim arising in connection with or out of, or otherwise relating to this Agreement, the Security Agreement, the Collateral, or any transaction or agreement related thereto.

6. No Third Party Beneficiaries. In performing hereunder, Securities Intermediary is acting solely on behalf of Secured Party and Pledgor and no contractual or service relationship shall be deemed to be established hereby between Securities Intermediary and any other person.

7. Headings. Section headings are included in this Agreement for convenience only and shall have no substantive effect on its interpretation.

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but such counterparts shall, together, constitute only one instrument.

9. USA PATRIOT ACT. Pledgor and Secured Party hereby acknowledge that Securities Intermediary is subject to federal laws, including the Customer Identification Program (CIP) requirements under the USA PATRIOT Act and its implementing regulations, pursuant to which Securities Intermediary must obtain, verify and record information that allows Securities Intermediary to identify each of Pledgor and Secured Party. Accordingly, prior to opening the Accounts hereunder Securities Intermediary will ask Pledgor and/or Secured Party to provide certain information including, but not limited to, Pledgor's and/or

Secured Party's name, physical address, tax identification number and other information that will help Securities Intermediary to identify and verify each of Pledgor's and Secured Party's identity such as organizational documents, certificate of good standing, license to do business, or other pertinent identifying information. Pledgor and Secured Party agree that Securities Intermediary cannot open the Accounts hereunder unless and until the Securities Intermediary verifies the Pledgor's and/or Secured Party's identity in accordance with its CIP.

10. Internal Controls. Securities Intermediary shall provide its relevant SAS-70 reports to Secured Party on an annual basis, along with quarterly attestations that pertinent controls remain in place, and such Sarbanes-Oxley sub-certifications as are customarily provided by Securities Intermediary to its other customers similarly situated.

*[signature pages follow]*

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed as of the date set forth above.

TALF LLC, as Pledgor

By Federal Reserve Bank of New York,  
as Managing Member

THE BANK OF NEW YORK MELLON,  
as Secured Party

THE BANK OF NEW YORK MELLON,  
as Securities Intermediary

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