

**Amended and Restated Funding Note Purchase Agreement  
Effective April 26, 2010**

**Appendix A – Definitions**

## APPENDIX A DEFINITIONS

As used in this Agreement and its exhibits and appendices, the following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined unless otherwise noted).

Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Transaction Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, and (iii) reference to any time shall mean New York City time.

**"Additional Securities"** means securities other than Student Loan Short-Term Notes issued by the Conduit Lender.

**"Administration Agreement"** means the Administration Agreement between the Conduit Lender and the Conduit Administrator.

**"Advance"** means an advance made by the Conduit Lender pursuant to Article I.

**"Advance Amount"** means, with respect to any Advance Date, the least of (i) the Allocation Amount for such Advance Date, (ii) the maximum amount by which the Funding Note Balance may be increased without causing the Asset Coverage Ratio to be less than the Minimum Asset Coverage Ratio and (iii) an amount requested by the Funding Note Issuer in the Advance Confirmation for such Advance Date.

**"Advance Confirmation"** means a notice in the form of Exhibit Q.

**"Advance Date"** means, with respect to any Advance, the date on which such Advance is made.

**"Adverse Claim"** means, without duplication, an "adverse claim" as such term is defined in Article 8 of the UCC and any lien, security interest, charge, encumbrance, property interest or other right or claim or restriction in favor of any Person (including any claim arising from any UCC financing statement or similar instrument filed against the assets of that Person) other than, with respect to the Pledged Collateral, any lien, security interest, charge, encumbrance or other right or claim or restriction in favor of the Conduit Lender.

**"Affected Party"** means the Conduit Lender, the Conduit Administrator, the Manager, each Structuring Agent, each Program Support Provider, [the Eligible Lender Trustee,] the Department, any dealer for the Student Loan Short-Term Notes and any permitted assignee of the Conduit Lender.

**"Affiliate"** means, when used with respect to a Person, any other Person controlling, controlled by or under common control with such Person. A Person shall be deemed to control another person if the controlling Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other Person, whether through the ownership of voting securities, membership interests, by contract or otherwise.

**"Affiliated Prior Transferor"** means any Prior Transferor that is an Affiliate of the Funding Note Issuer.

**"Affiliated Servicer"** means any Servicer that is the Funding Note Issuer or an Affiliate of the Funding Note Issuer.

**"Agreed Upon Procedures Letter"** means, an agreed upon procedures letter, prepared in accordance with the guidelines published by the Department from time to time, provided by a public accounting firm approved by the Manager covering compliance of a sample of Financed Student Loans with the criteria regarding loan eligibility as specified in the guidelines published by the Department from time to time. Unless otherwise specified in the guidelines published by the Department or in this Agreement, the relevant sample shall include such number of Student Loans as may be determined by the public accounting firm that will ensure a 95% rate of confidence in such sample. The relevant pool for any Agreed Upon Procedures Letter required to be delivered with respect to any Grant Date shall, at a minimum, include all Financed Student Loans pledged to the Conduit Lender on such Grant

Date and all Financed Student Loans that have not previously been included in a relevant pool for an Agreed Upon Procedures Letter delivered to the Manager and the Department in respect of any prior Grant Date or Advance Date, and for the avoidance of doubt, may include additional Student Loans. The relevant pool for any Agreed Upon Procedures Letter required to be delivered with respect to any Advance Date that is not a Grant Date shall, at a minimum, include all Financed Student Loans that have not previously been included in a relevant pool for an Agreed Upon Procedures Letter delivered to the Manager and the Department in respect of any prior Grant Date or Advance Date, and for the avoidance of doubt, may include additional Student Loans. The relevant pool for any Agreed Upon Procedures Letter required to be delivered pursuant to Section 12 of Appendix D of this Agreement shall, at a minimum, include all Financed Student Loans that have not previously been included in a relevant pool for an Agreed Upon Procedures Letter delivered to the Manager and the Department pursuant to Section 12 of Appendix D of this Agreement, and may include other Financed Student Loans in accordance with the guidelines published by the Department.

“**Agreement**” means this Funding Note Purchase Agreement, together with all exhibits, schedules and appendices attached hereto as the same may be amended, restated, supplemented or otherwise modified from time to time hereafter.

“**Allocation Amount**” means, with respect to any Advance Date, all or a portion of the amount of the Advance requested by the Funding Note Issuer for such Advance Date, as determined in accordance with the Funding Allocation Procedures.

“**Applicable Document**” means, with respect to the Conduit Lender, the Funding Note Issuer, [the Eligible Lender Trustee,] [or] the Conduit Administrator [or the SPV Administrator], as the context requires, this Agreement and each other Transaction Document to which such entity is a party.

“**Asset Coverage Ratio**” means, as of any date of determination, the ratio (expressed as a percentage and rounded to the nearest second decimal place) of (a) the Collateral Value of the Financed Student Loans as of the end of the most recent Settlement Period, *less* the Collateral Value of any Student Loans released from the Conduit Lender’s security interest after the end of the most recent Settlement Period and on or prior to such date of determination (net of any Reimbursement Amounts with respect to such Student Loans, funds representing the Department Put Price of such Student Loans and funds paid by the Funding Note Issuer [, [any] [the] Seller] or [any] [the] Servicer for purchase of such Student Loans, in each case received or expected to be received in the Funding Note Issuer Collection Account after the end of the most recent Settlement Period and on or before such date of determination), *plus* the aggregate Collateral Value of any Student Loans that became Financed Student Loans after the end of the most recent Settlement Period and on or prior to such date of determination (determined as of the related Cut-off Date) to (b) the Funding Note Balance as of such date.

“**Authorized Officer**” means:

(a) with respect to the Funding Note Issuer, any officer [of the Eligible Lender Trustee or the SPV Administrator] who is authorized to act for the [Eligible Lender Trustee or the SPV Administrator in matters relating to the] Funding Note Issuer pursuant to the Transaction Documents and who is identified on the list of Authorized Officers delivered by the [Eligible Lender Trustee or the SPV Administrator, as applicable,] [Funding Note Issuer] to the Conduit Lender on the Closing Date (as such list may be modified or supplemented by the [Eligible Lender Trustee or the SPV Administrator, as applicable,] [Funding Note Issuer] from time to time thereafter and delivered to the Manager);

(b) with respect to any Seller, any officer [of the Eligible Lender Trustee or the SPV Administrator] who is authorized to act for the [Eligible Lender Trustee or the SPV Administrator in matters relating to the] Seller pursuant to the Transaction Documents and who is identified on the list of Authorized Officers delivered by the [Eligible Lender Trustee or the SPV Administrator, as applicable,] [Seller] to the Conduit Lender on the Closing Date (as such list may be modified or supplemented by the [Eligible Lender Trustee or the SPV Administrator, as applicable,] [Seller] from time to time thereafter and delivered to the Manager);

(c) [with respect to the SPV Administrator, any officer of the SPV Administrator who is authorized to act for the SPV Administrator in matters relating to itself or to the Funding Note Issuer and to be acted upon by the SPV Administrator pursuant to the Transaction Documents and who is identified on the list of Authorized Officers delivered by the SPV Administrator to the Conduit Lender on the Closing Date (as such list may be

modified or supplemented by the SPV Administrator from time to time thereafter and delivered to the Manager)]<sup>40</sup>; [and]

(d) with respect to any Servicer, any officer of such Servicer who is authorized to act for such Servicer in matters relating to itself or to be acted upon by such Servicer pursuant to the Transaction Documents and who is identified on the list of Authorized Officers delivered by such Servicer to the Conduit Lender on the Closing Date (as such list may be modified or supplemented by such Servicer from time to time thereafter and delivered to the Manager); and][.]

(e) [with respect to the Eligible Lender Trustee, any officer of the Eligible Lender Trustee who is authorized to act for the Eligible Lender Trustee in matters relating to itself or to be acted upon by the Eligible Lender Trustee pursuant to the Transaction Documents and who is identified on the list of Authorized Officers delivered by the Eligible Lender Trustee to the Conduit Lender on the Closing Date (as such list may be modified or supplemented by the Eligible Lender Trustee from time to time thereafter and delivered to the Manager and the Funding Note Issuer).]

**“Authorized Re-Issuance”** means a re-issuance of a disbursement on an Eligible Loan within 120 days of such Eligible Loan’s final disbursement date by the [[applicable] Seller] [Funding Note Issuer] due to (i) an error in the addressee or payment method of the initial disbursements or (ii) a change in the school status (full-time or part-time) of the related Borrower.

**“Available Funds”** means, with respect to a Settlement Date, the sum of the following amounts received into the Funding Note Issuer Collection Account with respect to the related Settlement Period:

(a) all collections of principal and interest on the Financed Student Loans, including any payments received from the Guarantees on the Financed Student Loans, in each case, to the extent received after the related Cut-off Date for each Financed Student Loan but *net of* (i) any collections in respect of principal on the Financed Student Loans applied by the Funding Note Issuer to repurchase Guaranteed loans from the Guarantors under the Guarantee Agreements, (ii) amounts required by the Higher Education Act to be paid to the Department or to be repaid or rebated to Borrowers (whether or not in the form of a principal reduction of the applicable Financed Student Loan) on the Financed Student Loans for that Settlement Period and (iii) amounts deposited to the DOE Reserve Account pursuant to Section 1.07 in respect of Estimated Excess Accrual;

(b) any Interest Subsidy Payments and Special Allowance Payments with respect to the Financed Student Loans received during that Settlement Period for the Financed Student Loans;

(c) all Liquidation Proceeds from any Financed Student Loans which became Liquidated Student Loans during that Settlement Period in accordance with the Servicer’s applicable Servicing Policies, plus all Recoveries on Liquidated Student Loans which were written off in prior Settlement Periods or during that Settlement Period;

(d) the aggregate of the Reimbursement Amounts deposited to the Funding Note Issuer Collection Account during that Settlement Period and any amounts received from any Servicer in connection with Financed Student Loans purchased by such Servicer or its assignee or any other reimbursement obligations of any Servicer for breaches of representations, warranties, covenants or otherwise in accordance with this Agreement;

(e) investment earnings for that Settlement Period earned on investments in the Trust Accounts during such Settlement Period;

(f) amounts, if any, transferred into the Funding Note Issuer Collection Account from the Reserve Account in excess of the Reserve Account Specified Balance, calculated as of the end of the Settlement Period related to that Settlement Date;

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<sup>40</sup> Clause (b) to be “[reserved]” for Eligible Direct Issuers and clause (d) to be “[reserved]” for Eligible Direct Issuers not using an Eligible Lender Trustee.

(g) amounts received, if any, in respect of insurance proceeds after the related Cut-off Date for any Financed Student Loan;

(h) if a Financed Student Loan is consolidated, the portion of the proceeds of the applicable Consolidation Loan allocable to such Financed Student Loan;

(i) the aggregate Department Put Prices of any Financed Student Loans sold to the Department pursuant to the Department Put Agreement or the proceeds of any sale of Financed Student Loans; and

(j) all other Collections or other amounts deposited into the Funding Note Issuer Collection Account for application pursuant to Section 1.05(c) on the applicable Settlement Date (other than amounts deposited pursuant to clauses (c) and (d) of Section 1.06, funds on deposit in the Sold Loans Account and cash collateral posted pursuant to Section 1.02(b)).

**“Bankruptcy Code”** means Title 11 of the United States Code (11 U.S.C. Section 101 et seq.), as amended from time to time, and any successor statute.

**“Benefit Plan”** means any employee benefit plan as defined in Section 3(3) of ERISA in respect of which the Funding Note Issuer or any ERISA Affiliate is, or at any time during the immediately preceding six years was, an “employer” as defined in Section 3(5) of ERISA.

**“Bill of Sale”** means each agreement substantially in the form of Attachment A of the Student Loan Purchase Agreement[s] and executed by an Authorized Officer of each of [(i) in the case of a First-Tier Student Loan Purchase Agreement, the [applicable] First-Tier Seller, [the [applicable] First-Tier Seller Eligible Lender Trustee,] the [applicable] Second-Tier Seller and the [applicable] Seller Eligible Lender Trustee, and (ii) in case of a Second-Tier Student Loan Purchase Agreement,]<sup>41</sup> the [applicable] [Second-Tier] Seller, [the [applicable] [Second-Tier] Seller Eligible Lender Trustee,] the Funding Note Issuer and the Eligible Lender Trustee, pursuant to which [(i) in the case of a First-Tier Student Loan Purchase Agreement, the [applicable] First-Tier Seller [and the [applicable] First-Tier Seller Eligible Lender Trustee] grant, sell, assign, transfer, convey and, to the extent applicable, contribute to the [applicable] Second-Tier Seller and the [applicable] Second-Tier Seller Eligible Lender Trustee, and (ii) in the case of a Second-Tier Student Loan Purchase Agreement,] the [applicable] [Second-Tier] Seller [and the [applicable] [Second-Tier] Seller Eligible Lender Trustee] grant, sell, assign, transfer, convey and, to the extent applicable, contribute to the Funding Note Issuer and the Eligible Lender Trustee, all right, title and interest of the [applicable] Seller [and the [applicable] Seller Eligible Lender Trustee] in certain Eligible Loans as listed on a Loan Transmittal Summary Form.]<sup>42</sup>

**“Blackout Date”** means a day identified by the Department in writing to the Conduit Administrator as unavailable for making purchases of Loans or other payments under the Department Put Agreement, which notice shall be provided to the Conduit Administrator not less than ninety (90) days prior to the applicable Blackout Date except in the case of exigent circumstances, in which case the Department will provide notice as soon as reasonably practicable.

**“Borrower”** means the student or parent obligor on a Student Loan.

**“Breakage Account”** means the account identified as the **“Breakage Account”** in the certificate delivered by the Conduit Administrator pursuant to Section 1(a)(vi) of Appendix B on the Closing Date, or any account replacing such account.

**“Business Day”** means a day other than (i) a federal holiday, (ii) a Saturday or a Sunday or (iii) any other day on which commercial banks in New York are required by law to close.

**“Calculation Date”** means the date of issuance of the Funding Note or any date of an increase in the Highest Funding Note Balance of such Funding Note.

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<sup>41</sup> Bracketed text to be inserted in two-tier transactions.

<sup>42</sup> Bracketed text to be used only if Funding Note Issuer is an SPV.

“**Calculation Date Structuring Fee**” means, for any Calculation Date, an amount equal to the Structuring Fee Rate in effect on such Calculation Date multiplied by the amount of the increase, if any, in the Highest Funding Note Balance of the Funding Note on such Calculation Date.

“**Calendar Week**” means the period of time beginning on Sunday and ending on, but excluding, the following Sunday.

“**Capitalized Ratable Financing Costs**” means, any portion of the Ratable Financing Costs for any Yield Period that remains unpaid after giving effect to all distributions to be made on any Settlement Date.

[“**Cash Proceeds**” is defined in the definition of Net Cash Proceeds in this Appendix A.]<sup>43</sup>

“**Category Percentage**” means, with respect to a given category of Student Loans, the percentage of the Student Loans (by count) in such category in the Relevant Loan Portfolio.

“**Closing Date**” means [ ], 20[\_\_\_].

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time, or any successor statute and the regulations promulgated and rulings issued thereunder.

“**Collateral Value**” means, as to any Financed Student Loan as of any date of determination, the product of (a) the sum of (i) the Principal Balance of such Financed Student Loan on such date of determination, and (ii) the result (if positive) of all accrued and unpaid Interest Subsidy Payments and Special Allowance Payments on such Financed Student Loan less any accrued and unpaid Negative Special Allowance Payments on such Financed Student Loan *multiplied by* (b) 97%.

“**Collections**” means (a) all amounts received with respect to principal and interest and other proceeds, payments and reimbursements, including Recoveries, with respect to any Financed Student Loan and any other collection of amounts with respect to such Financed Student Loan after the related Cut-off Date for such Student Loan and (b) all other collections and other cash proceeds of the Pledged Collateral (including, without limitation, in each of clauses (a) and (b) above, each of the items enumerated in the definition of Available Funds with respect to any Settlement Period).

“**Commitment Amount**” [with respect to [the] [any] [First-Tier] Seller, is defined in the [related] [First-Tier] Student Loan Purchase Agreement]<sup>44</sup> [means, with respect to the Funding Note Issuer and all pledges of Financed Student Loans to the Conduit Lender during a calendar month, an amount equal to the product of (a) the Net Cash Proceeds received by the Funding Note Issuer in such month, *multiplied by* (b) the applicable Market Adjustment.]<sup>45</sup>

“**Commitment Reporting Date**” is defined in [Section 2 of [each] [the] [First-Tier] Student Loan Purchase Agreement]<sup>46</sup> [Section 20 of Appendix D]<sup>47</sup>.

“**Conduit Administrator**” means The Bank of New York Mellon, a New York banking corporation.

“**Conduit Advisory Committee**” means the conduit advisory committee formed for the Conduit Lender pursuant to the Administration Agreement.

“**Conduit Financing Costs**” means, with respect to any Yield Period, an amount equal to all financing and other fees, costs, expenses and indemnities of the Conduit Lender and the Securities issuance program of the

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<sup>43</sup> Bracketed text to be used only for Eligible Direct Issuers.

<sup>44</sup> Insert bracketed text for a SPV Funding Note Issuer.

<sup>45</sup> Insert bracketed text for an Eligible Direct Issuer.

<sup>46</sup> Insert bracketed text for a SPV Funding Note Issuer.

<sup>47</sup> Insert bracketed text for an Eligible Direct Issuer.

Conduit Lender for such Yield Period, but excluding (i) Startup Costs, (ii) Transaction Costs and (iii) Other Conduit Costs.

“**Conduit Lender**” means Straight-A Funding, LLC, a Delaware limited liability company.

“**Conduit Lender Account**” means the account identified as the “Collection Account” in the Administration Agreement.

“**Conduit Lender Eligible Lender Trustee**” means The Bank of New York Mellon, a New York banking corporation.

“**Confidence Range**” means the range between the Upper Boundary and the Lower Boundary.

“**Consolidation Loan**” means a loan made to a borrower which loan consolidates such borrower’s PLUS Loans, SLS Loans, direct loans made by the Department, Stafford Loans in accordance with the Higher Education Act and/or loans made under the Federal Health Education Assistance Loan Program authorized under Sections 701 through 720 of the Public Health Services Act.

“**Conversion File**” means the schedule (in the form provided by the Department from time to time) to be completed by the [applicable] [Master] Servicer, containing loan level details with respect to the Putable Loans proposed to be sold to the Department on the related Department Put Date.

“**Cut-off Date**” means, with respect to any Financed Student Loan, the date set forth as such in the Loan Designation Notice relating to the Grant of such Financed Student Loan.

“**Daily Put Limit**” means (i) \$500,000,000 per week during any Calendar Week prior to July 20, 2009 or (ii) \$10,000,000,000 on any Department Put Date on or after July 20, 2009.

“**Debt**” means, with respect to any Person, (a) indebtedness of such Person for borrowed money; (b) obligations of such Person evidenced by bonds, debentures, notes, letters of credit, interest rate and currency swaps or other similar instruments; (c) obligations of such Person to pay the deferred purchase price of property or services; (d) obligations of such Person as lessee under leases which shall have been or should be, in accordance with GAAP, recorded as capital leases; (e) obligations secured by an Adverse Claim upon property or assets owned by such Person, even though such Person has not assumed or become liable for the payment of such obligations; (f) obligations of such Person under direct or indirect guaranties in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of other Persons of the kinds referred to in clauses (a) through (e) above; (g) all obligations of such Person upon which interest charges are customarily paid; (h) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person; (i) all obligations, contingent or otherwise, of such Person in respect of bankers’ acceptances or as an account party in respect of letters of credit and letters of guaranty; (j) all obligations of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person’s ownership interest in or other relationship with such entity, except to the extent the terms of such obligations provide that such Person is not liable therefor; and (k) any other liabilities of such Person which would be treated as indebtedness in accordance with GAAP.

[“**Deemed Liabilities**” means, with respect to the Funding Note Issuer and Student Loans not pledged to secure indebtedness of the Funding Note Issuer, an amount equal to the product of (a) the Cash Proceeds for such Student Loans and (b) the percentage equivalent of a fraction, the numerator of which equals the total liabilities and the denominator of which equals the total liabilities and stockholder’s equity, in each case calculated in accordance with generally accepted accounting principles and reflected in the most recent consolidated quarterly financial statements for the Funding Note Issuer (or the Funding Note Issuer’s ultimate parent to the extent financial statements are not available for the Funding Note Issuer).]<sup>48</sup>

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<sup>48</sup> Insert bracketed text for an Eligible Direct Issuer.

**“Delinquency Put Date”** means, with respect to a Delinquency Put Event, the third Business Day of the Specified Week that includes the date forty-five (45) days after the date upon which the related Put Notice was delivered (or, if such day is a Blackout Date, the preceding Business Day that is not a Blackout Date and on which the Daily Put Limit has not been exceeded).

**“Delinquency Put Event”** means, with respect to any Financed Student Loan, such Financed Student Loan shall have become 210 days delinquent.

**“Delinquent Student Loan”** means any Financed Student Loan as to which any payment, or portion thereof, is more than 210 days past due from the original due date thereof.

**“Department”** means the United States Department of Education, or any official of the Department duly authorized to perform any function with respect to the transactions under the Department Put Agreement or the other Transaction Documents.

**“Department Bill of Sale”** means a bill of sale delivered pursuant to the Department Put Agreement, executed by an authorized officer of the Conduit Lender and the Conduit Administrator, which shall (i) set forth the Putable Loans sold by the Conduit Lender and the Conduit Administrator to the Department pursuant thereto; (ii) sell, assign and convey to the Department and its assignees, all right, title and interest of the Conduit Administrator, the Conduit Lender and the Funding Note Issuer in the Putable Loans listed on such bill of sale; and (iii) sell, assign and convey all rights of the Conduit Lender and the Conduit Administrator under this Agreement [and the related Student Loan Purchase Agreement[s]] with respect to the Putable Loans sold thereunder.

**“Department Put Agreement”** means the agreement between the Conduit Administrator, the Conduit Lender and the Department pursuant to which the Department, subject to the terms and conditions described therein, has agreed to purchase Financed Student Loans from the Conduit Administrator upon the occurrence of certain events, as may be amended, supplemented or otherwise modified from time to time.

**“Department Put Date”** means the date (or, if such day is not a Business Day, the following Business Day or, if such day is a Blackout Date, the preceding Business Day that is not a Blackout Date and on which the Daily Put Limit has not been exceeded) forty-five (45) days after delivery of a Put Notice to the Department or, with respect to a Delinquency Put Event, the applicable Delinquency Put Date, on which the Conduit Lender and the Conduit Administrator sell and the Department purchases Putable Loans in accordance with this Agreement. The latest Department Put Date shall be the Put Expiration Date.

**“Department Put Event”** means the occurrence of any of the following:

(i) any failure to make a Liquidity Advance when due; provided, that, a Department Put Event shall not be deemed to occur under this clause (i) if the related Liquidity Advance shall have been made by any other Person; or

(ii) any Liquidity Advance which remains unpaid for more than forty-five (45) days after the date on which such Liquidity Advance was made in accordance with any Liquidity Facility; or

(iii) the date (or, if such date is not a Business Day, the immediately preceding Business Day) that is forty-five (45) days prior to the Put Expiration Date; provided, that a Department Put Event shall occur on each date preceding such forty-fifth (45<sup>th</sup>) day to the extent necessary in order to ensure that the Daily Put Limit is not exceeded on any related Department Put Date; or

(iv) the declaration or automatic occurrence of an Event of Default, including, without limitation, an Event of Default described in clause (x) of Appendix E; or

(v) a Delinquency Put Event; or

(vi) the date (or, if such date is not a Business Day, the immediately preceding Business Day) that is forty-five (45) days prior to the maturity date of any Additional Securities; provided, that a Department Put Event shall occur on each date preceding such forty-fifth (45<sup>th</sup>) day to the extent necessary in order to ensure that the Daily Put Limit is not exceeded on any related Department Put Date.

**“Department Put Price”** means, as of any Department Put Date (i) with respect to Putable Loans (A) with respect to which the first disbursement was made on or after May 1, 2008; (B) subject to only Eligible Borrower Benefits; and (C) not 210 or more days delinquent as of the related Department Put Event, 100% of the sum of the Principal Balance of such Financed Student Loans on the related Department Put Date plus accrued and unpaid interest on such Financed Student Loans through the day immediately preceding such Department Put Date or (ii) with respect to all other Putable Loans, not more than 270 days delinquent, 97% of the sum of the Principal Balance of such Student Loans on the related Department Put Date plus accrued and unpaid interest on such Financed Student Loans through the day immediately preceding such Department Put Date.

**“Department Rebate Payment Date”** means the quarterly date that (i) Negative Special Allowance Payments with respect to the Financed Student Loans are due and payable to the Department or (ii) the Department offsets such Negative Special Allowance Payments from Interest Subsidy Payments or Special Allowance Payments due to the Funding Note Issuer.

**“Determination Date”** means the third (3<sup>rd</sup>) Business Day preceding each Settlement Date.

**“Disclosure Package”** is defined in Appendix G.

**“DOE Reserve Account”** means the account identified as the “DOE Reserve Account” in the certificate delivered by the Funding Note Issuer pursuant to Section 1(a)(vi) of Appendix B on the Closing Date, or any account replacing such account.

**“Eligible Borrower Benefit”** means only those borrower benefits for a Student Loan that are (i) unconditional upfront fee reductions which are accrued and paid or made prior to the date on which the related Student Loan is sold to the Funding Note Issuer and (ii) permitted reductions in interest rates of not more than one-quarter of a percent (0.25%) that are contingent on the use of an automatic payment process by the Borrower for any payments due.

**“Eligible Investments”** means any of the following: (a) direct obligations of, and obligations fully and unconditionally guaranteed as to timely payment by, the United States government or any agency, instrumentality, or establishment of the United States government (“Government Securities”); (b) commercial paper having, at the time of investment or contractual commitment to invest therein, a rating of [“A-1+” from S&P] [and] [“P-1” from Moody’s] [and] [“F1+” or higher from Fitch]; (c) repurchase and reverse repurchase agreements collateralized with Government Securities, including those of the Conduit Administrator or any of its affiliates; (d) investment in money market mutual funds having a rating in the highest investment category granted thereby from [S&P] [Moody’s] [and] [Fitch], including, without limitation, any mutual fund for which the Conduit Administrator or an affiliate of the Conduit Administrator serves as investment manager, administrator, shareholder servicing agent, and/or custodian or subcustodian, notwithstanding that (i) the Conduit Administrator or an affiliate of the Conduit Administrator receives fees from funds for services rendered, (ii) the Conduit Administrator collects fees for services rendered pursuant to the Administration Agreement, which fees are separate from the fees received from such funds, and (iii) services performed for such funds and pursuant to the Administration Agreement may at times duplicate those provided to such funds by the Conduit Administrator or an affiliate of the Conduit Administrator; and (e) demand deposits, including interest bearing money market accounts, time deposits, trust funds, trust accounts, overnight bank deposits, interest-bearing deposits and certificates of deposit or bankers acceptances of depository institutions, including the Conduit Administrator or any of its affiliates, having a long-term rating equivalent to “AAA” or higher by [S&P] [and] [Moody’s] [and] [Fitch] at the time of and during investment.

**“Eligible Lender”** means an entity that is an “eligible lender” under Section 435(d) of the Higher Education Act that holds Student Loans (whether directly or as an eligible lender trustee).

[**“Eligible Lender Trust Agreement”** means the eligible lender trust agreement, dated as of [ ], between the Funding Note Issuer and the Eligible Lender Trustee.]

[**“Eligible Lender Trustee”** means [ ], a [ ], not in its individual capacity but solely as Eligible Lender Trustee under the Eligible Lender Trust Agreement and its successor or successors and any other corporation which may at any time be substituted in its place pursuant to the terms of the Eligible Lender Trust Agreement.]

["**Eligible Lender Trustee Fees**"] means the fees, reasonable expenses and charges of the Eligible Lender Trustee, including reasonable legal fees and expenses, as agreed to in writing by the Eligible Lender Trustee and the [SPV Administrator] [Funding Note Issuer], not to exceed \$[ ] per annum.]

"**Eligible Loan**" means a Student Loan which meets the following criteria as of the applicable Grant Date:

(a) the Student Loan is a Putable Loan and satisfies the representations and warranties set forth in Section 2 of Appendix C;

(b) the Student Loan is fully disbursed, other than Authorized Re-Issuances;

(c) the Student Loan has been originated and serviced in compliance with all requirements of applicable law, including the Higher Education Act and the implementing regulations, the Equal Credit Opportunity Act, Regulation B and other applicable consumer credit laws and equal credit opportunity laws, as applicable to such Student Loan;

(d) the Student Loan is guaranteed at least 97% as to principal and interest by the applicable Guarantor and eligible for reinsurance by the Department in accordance with the Higher Education Act;

(e) the Student Loan bears interest at a stated rate equal to the maximum rate permitted under the Higher Education Act for such Student Loan (except as the rate is modified by any borrower benefit other than an Excluded Borrower Benefit for which the required reserve has not been established);

(f) the Student Loan is eligible for the payment of quarterly Special Allowance Payments;

(g) if the Student Loan is not yet in repayment status, the Student Loan is eligible for payment of Interest Subsidy Payments, or if not eligible, has interest either billed quarterly to the Borrower or capitalized to the extent permitted by the applicable Guarantor (unless, by the applicable Grant Date, the Funding Note Issuer would not otherwise have billed the Borrower quarterly for interest accrued on the related Student Loan);

(h) the Student Loan is evidenced by a signed Promissory Note in the form (including any required addenda) published by, and prescribed by, the Department, without change of any kind, and is not subject to any agreement not contained in that note that would bar, condition or limit either transfer or pledge of the Student Loan or the exercise by a transferee of the rights of the Eligible Lender under terms of the note, except as such agreement relates exclusively to Eligible Borrower Benefits on the Student Loan;

(i) the Student Loan has not been modified, extended or renegotiated in any way, except as required under the Higher Education Act or other applicable laws, rules and regulations, and the applicable Guarantee Agreement, except as any such modification, extension, or renegotiation relates exclusively to borrower benefits on the Student Loan;

(j) the Student Loan constitutes a legal, valid and binding obligation to pay on the part of the related Borrower enforceable in accordance with its terms and the Borrower is not subject to a current bankruptcy proceeding;

(k) the Student Loan is supported by the Loan Documents;

(l) the Student Loan is subject to a Servicing Agreement;

(m) the sale, pledge or assignment of the Student Loan does not conflict with any law or require notice to or consent, approval, authorization or order of any Person or governmental authority, except for such consent, approval, authorizations or orders, if any, that have been obtained prior to the related Grant Date, and for any notices to Borrowers and Guarantors required by the Higher Education Act;

(n) if the Student Loan is made under Section 428 (Subsidized Stafford Loans) or Section 428H (Unsubsidized Stafford Loans) of the Higher Education Act, all of the Borrower's other Subsidized Stafford Loans and Unsubsidized Stafford Loans that are Eligible Loans and that are held by or on behalf of the [[related] Seller] [Funding Note Issuer] (other than any such Student Loans that are Restricted Loans as described in clause

(ii) of the definition thereof) [are being sold to the Funding Note Issuer and] will become Financed Student Loans on the applicable Grant Date;

(o) the Student Loan has been originated or acquired by either an Eligible Lender, or a lender that is not an Eligible Lender and the legal title of such Student Loan is held by an eligible lender trustee, and the Department has timely received the applicable Notice of Intent to Participate;

(p) [if the Student Loan is a NYC Loan, any payment, or portion thereof, due from the Borrower is not (i) due on such Grant Date or (ii) 1 or more days past due from the original due date thereof]<sup>49</sup>; and

(q) the Student Loan was selected in accordance with the [Loan Sale Allocation Criteria] [Loan Pledge Allocation Criteria]<sup>50</sup>.

“**ERISA**” means the United States Employee Retirement Income Security Act of 1974, as amended from time to time, or any successor statute and the regulations promulgated and rulings issued thereunder.

“**ERISA Affiliate**” means a corporation, trade or business that is, along with the Funding Note Issuer, a member of a controlled group of corporations or a controlled group of trades or businesses, as described in Section 414 of the Code of 1986, as amended, or Section 4001 of ERISA.

“**Estimated Department Put Price**” means, with respect to any Student Loan and any date of determination, the Department Put Price for such Student Loan, provided that for purposes of such calculation references to the “Department Put Date” in the definition of Department Put Price shall be deemed to refer to the relevant date of determination.

“**Estimated Excess Accrual**” means, with respect to any calendar month, the excess, if any, of (i) the estimated monthly accrual of Negative Special Allowance Payments since the prior Department Rebate Payment Date, less (ii) the amount of accrued Interest Subsidy Payments or Special Allowance Payments due to the Funding Note Issuer since the prior Department Rebate Payment Date.

“**Estimated Financing Costs Adjustment**” means, for each Settlement Date, an amount (positive or negative) equal to (x) the Ratable Financing Costs that accrued during the Yield Period ending on the preceding Settlement Date *minus* (y) the Ratable Financing Costs paid on such preceding Settlement Date.

“**Event of Bankruptcy**” means, with respect to a specified Person, (a) the filing of a decree or order for relief by a court having jurisdiction in the premises in respect of such Person or any substantial part of its property in an involuntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or appointing a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or ordering the winding-up or liquidation of such Person’s affairs, which decree or order remains unstayed and in effect for a period of thirty (30) consecutive days; provided that an Event of Bankruptcy shall occur with respect to any Person that is a depository institution on the date the Federal Deposit Insurance Corporation is appointed as conservator or receiver for such Person; or (b) the commencement by such Person of a voluntary case under any applicable federal or state bankruptcy, insolvency or other similar law now or hereafter in effect, or the consent by such Person to the entry of an order for relief in an involuntary case under any such law, or the consent by such Person to the appointment of or taking possession by a receiver, liquidator, assignee, custodian, trustee, sequestrator or similar official for such Person or for any substantial part of its property, or the making by such Person of any general assignment for the benefit of creditors, or the failure by such Person generally to pay its debts as such debts become due, or the taking of action by such Person in furtherance of any of the foregoing.

“**Event of Default**” has the meaning assigned to such term in Section 6.01.

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<sup>49</sup> Include for Funding Note Issuers that are SPVs. To be “reserved” for Eligible Direct Issuers.

<sup>50</sup> Use first alternative for Funding Note Issuers that are SPVs. Use second alternative for Funding Note Issuers that are Eligible Direct Issuers.

**“Excluded Borrower Benefit Account”** means, to the extent any Financed Student Loan is subject to Excluded Borrower Benefits, the account identified as the “Excluded Borrower Benefit Account” in the Officer’s Certificate delivered by the Funding Note Issuer pursuant to Section 1(a)(vi) of Appendix B on the Closing Date or related Grant Date, or any account replacing such account.

**“Excluded Borrower Benefits”** means any borrower benefit that requires the lender to pay or rebate any amount to the Borrower or provide the Borrower with any gift or item of property, in any such case that has not been paid in full or delivered prior to the related Grant Date, which obligation shall be satisfied prior to the sale of such Student Loan to the Department.

**“Excluded Loan”** means any Student Loan (a) [sold pursuant to [the] [any] Student Loan Purchase Agreement or] pledged pursuant to this Agreement, (b) sold to the Department in connection with the Loan Purchase Commitment Program, and (c) with respect to which participation interests are sold to the Department in connection with the Loan Participation Purchase Program.

**“Excluded Tax”** means all Taxes other than Indemnified Taxes.

**“Expected Funding Date”** means a date specified in an Expected Funding Notice to Program Funding Note Issuers delivered pursuant to the Funding Allocation Procedures on which the Conduit Lender expects to increase the amount of its funding, as such date may be rescheduled or canceled by the Manager in accordance with the Funding Allocation Procedures.

**“Expected Funding Notice”** means a notice from the Manager that an Expected Funding Date has been scheduled substantially in the form attached hereto as Exhibit U.

**“Fair Market Auction”** means a sale of Financed Student Loans pursuant to an auction process conducted in accordance with Appendix G.

**“Federal Reimbursement Contracts”** means any agreement between any Guarantor and the Department providing for the payment by the Department of amounts authorized to be paid pursuant to the Higher Education Act, including but not necessarily limited to reimbursement of amounts paid or payable upon defaulted Student Loans Guaranteed by such Guarantor to holders of qualifying Student Loans.

**“FFELP”** means the Federal Family Education Loan Program as set forth and authorized under the Higher Education Act.

**“FFELP Commitment Default”** means the occurrence of an Event of Default described in clause (x) of Appendix E.

**“FFELP Commitment Prepayment Amount”** means, with respect to any FFELP Commitment Default, the amount by which the Commitment Amount required to be satisfied on the related Commitment Reporting Date exceeds the amount of FFELP student loans originated and/or acquired by [the Funding Note Issuer] [the] [any] [applicable] Seller] during the corresponding period ending on such Commitment Reporting Date.

**“Final Loan Put Schedule”** means a schedule (in a form approved by the Department and provided to each Servicer by the Conduit Administrator) listing Financed Student Loans selected for sale by the Funding Note Issuer in accordance with Section 1.03(c) or subject to sale as a result of the exercise of remedies by the Conduit Lender in accordance with Section 6.03, which schedule shall be prepared using the most current loan information available to the Servicers of the Financed Student Loans included in such Final Loan Put Schedule and shall include (i) the name of the Borrower, (ii) the loan number, (iii) the estimated Principal Balance and accrued interest (to the extent not included in the Principal Balance) of such Financed Student Loans as of the related Department Put Date[,] [and] (iv) [the applicable Seller and (v)] any other information the Department may reasonably require including but not limited to certain identification numbers and dates relating to the Financed Student Loans listed in such Final Loan Put Schedule.

**“Final Maturity Date”** means the earlier of (i) the date on which the Final Maturity Date is declared or occurs automatically in accordance with Section 6.02 and (ii) with respect to the Funding Note (or any portion thereof) not paid in full on the related Mandatory Final Prepayment Date, the Department Put Date with respect to

the Department Put Event arising from failure to pay the Funding Note Balance (or portion thereof) due on such Mandatory Final Prepayment Date; provided that, if on the Final Maturity Date determined pursuant to the preceding clause (ii), there are any accrued and unpaid Interest Subsidy Payments or Special Allowance Payments with respect to any Student Loans that were sold to the Department pursuant to the Department Put Agreement, the Final Maturity Date shall be extended to the Business Day following the date on which the Department shall have paid to the Funding Note Issuer all such Interest Subsidy Payments and Special Allowance Payments on the Student Loans previously sold to the Department or shall have offset all such accrued amounts against Negative Special Allowance Payments or other amounts payable by the Funding Note Issuer to the Department.

**“Financed Student Loan”** means (i) any Student Loan identified on a Loan Transmittal Summary Form attached to a Loan Designation Notice or (ii) any Student Loan re-issued in whole or in part in accordance with [Section 7(c) of the [related] Student Loan Purchase Agreement] [Section 6.04 of this Agreement] under the same loan number as a Student Loan previously identified on any Loan Transmittal Summary Form.

[**“First-Tier Seller[s]”** means [each of] [[ ], a [ ].]]<sup>51</sup>

[**“First-Tier Seller Eligible Lender Trustee[s]”** means [[ ], a [ ].]]<sup>52</sup>

[**“First-Tier Student Loan Purchase Agreement[s]”** means [the Student Loan Purchase Agreement[s], dated as of the Closing Date, among [the][each] First-Tier Seller, [[the][related] Seller Eligible Lender Trustee], [the][related] Second-Tier Seller and [the][related] Second-Tier Seller Eligible Lender Trustee, under which [the][each] First-Tier Seller will transfer certain Eligible Loans to [the][related] Second-Tier Seller, together with all sale agreements, blanket endorsements and bills of sale executed pursuant thereto.]

**“Fitch”** means Fitch, Inc. (or its successors in interest).

**“Funding Allocation Procedures”** means the Conduit Lender’s procedures for requesting and making advances published by the Manager from time to time (including, without limitation, in any website posting), with the consent of the Department, to the extent such consent is required in accordance with the Management Agreement.

**“Funding Note”** means a variable funding note issued by the Funding Note Issuer, substantially in the form attached hereto as Exhibit D.

**“Funding Note Balance”** means, as of any date of determination, (a) the aggregate principal amount of all Advances made hereunder on or prior to such date of determination, *less* (b) all payments of principal on the Funding Note made on or prior to such date of determination, *plus* (c) Capitalized Ratable Financing Costs. For the avoidance of doubt, the principal amount of each Advance shall include, and the Funding Note Balance shall be increased on each Advance Date by, the Advance Amount, including any portion of the Advance Amount deposited into the Reserve Account on the related Advance Date or applied to reimburse Transaction Costs or pay the Startup Costs Allocation (if any) on the related Advance Date.

**“Funding Note Issuer”** means [ ], [a Delaware limited liability company] [Insert applicable jurisdiction of organization for Eligible Direct Issuers].

**“Funding Note Issuer Collection Account”** means the account identified as the **“Funding Note Issuer Collection Account”** in the certificate delivered by the Conduit Administrator pursuant to Section 1(a)(vi) of Appendix B on the Closing Date, or any account replacing such account.

**“Funding Note Issuer Indemnified Amounts”** has the meaning assigned to such term in Section 7.01(a).

**“Funding Request”** means a notice substantially in the form of Exhibit A.

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<sup>51</sup> Include in a two-tier transaction.

<sup>52</sup> Include in a two-tier transaction.

“**GAAP**” means generally accepted accounting principles as in effect from time to time in the United States of America that are applicable to the circumstances as of the date of determination and applied on a consistent basis.

“**Governmental Authority**” means any nation or government, any state or other political subdivision thereof, any central bank (or similar monetary or regulatory authority) thereof, any body or entity exercising executive, legislative, judicial, regulatory or administrative functions or pertaining to government, including without limitation any court, and any Person owned or controlled, through stock or capital ownership or otherwise, by any of the foregoing.

“**Grant**” means to pledge, create and grant a security interest in and with regard to property. A Grant of Financed Student Loans, other assets or of any other agreement includes all rights, powers and options (but none of the obligations) of the granting party thereunder.

“**Grant Date**” means, with respect to any Student Loan, the date on which such Student Loan is [sold by [the] [any] [Second-Tier] Seller to the Funding Note Issuer, and] pledged by the Funding Note Issuer to the Conduit Lender pursuant to this Agreement.

“**Guarantee**” or “**Guaranteed**” means, with respect to a Student Loan, the insurance or guarantee by the applicable Guarantor, in accordance with the terms and conditions of the applicable Guarantee Agreement, of some or all of the principal of and accrued interest on such Student Loan and the coverage of such Student Loan by the Federal Reimbursement Contracts providing, among other things, for reimbursement to such Guarantor for losses incurred by it on defaulted Student Loans insured or guaranteed by such Guarantor.

“**Guarantee Agreement**” means an agreement between a Guarantor and the [applicable] [Seller Eligible Lender Trustee on behalf of the [applicable] Seller]<sup>53</sup> [Seller]<sup>54</sup> [[Eligible Lender Trustee on behalf of the] Funding Note Issuer]<sup>55</sup> that provides for the payment by such Guarantor of amounts authorized to be paid pursuant to the Higher Education Act to holders of qualifying FFELP student loans guaranteed in accordance with the Higher Education Act.

“**Guarantor**” means any FFELP guaranty agency with which the [applicable] [Seller Eligible Lender Trustee on behalf of the [applicable] Seller]<sup>56</sup> [Seller]<sup>57</sup> [[Eligible Lender Trustee on behalf of the] Funding Note Issuer]<sup>58</sup> has in place a Guarantee Agreement, and which guarantor is reinsured by the Department for a percentage of claims paid for a given federal fiscal year.

“**Higher Education Act**” means the Higher Education Act of 1965, 20 U.S.C. Section 1001 et seq., as amended or supplemented from time to time, and all regulations and guidelines promulgated thereunder.

“**Highest Funding Note Balance**” means, with respect to a Funding Note, the highest Funding Note Balance at any time from and after the issuance thereof (for purposes of calculating the Funding Note Balance as used in this definition for any date, the amount described in clause (c) of the definition of Funding Note Balance shall not exceed the amount described in clause (b) of such definition).

“**Indemnified Party**” has the meaning assigned to such term in Section 7.01(a).

“**Indemnified Taxes**” means any Taxes other than net income and franchise taxes imposed with respect to any Affected Party by the Governmental Authority under the laws of which such Affected Party is organized or in which it maintains its applicable lending office.

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<sup>53</sup> Use bracketed text for One-Tier or Two-Tier transactions which the Seller is not an “eligible lender.”

<sup>54</sup> Use bracketed text for One-Tier or Two-Tier transactions which the Seller is an “eligible lender.”

<sup>55</sup> Use bracketed text for Eligible Direct Issuers.

<sup>56</sup> Use bracketed text for One-Tier or Two-Tier transactions which the Seller is not an “eligible lender.”

<sup>57</sup> Use bracketed text for One-Tier or Two-Tier transactions which the Seller is an “eligible lender.”

<sup>58</sup> Use bracketed text for Eligible Direct Issuers.

**“Interest Subsidy Payments”** means the interest subsidy payments on certain FFELP student loans authorized to be made by the Department pursuant to Section 428 of the Higher Education Act.

**“Investment Company Act”** means the Investment Company Act of 1940, as amended.

**“Liquidated Student Loan”** means any defaulted Student Loan no longer subject to a Guarantee Agreement and liquidated by the Servicer (which shall not include any Financed Student Loan on which payments pursuant to the applicable Guarantee are received) or which the applicable Servicer has, after using all reasonable efforts to realize upon such Financed Student Loan, determined to charge off in accordance with the applicable Servicing Policies.

**“Liquidation Proceeds”** means, with respect to any Liquidated Student Loan which became a Liquidated Student Loan during the current Settlement Period in accordance with the applicable Servicing Policies, the amounts collected in respect of the liquidation thereof from whatever source, other than Recoveries, net of the sum of any amounts expended by the related Servicer in connection with such liquidation and any amounts required by law to be remitted to the Borrower on such Liquidated Student Loan.

**“Liquidity Advance”** means an advance made to the Conduit Lender pursuant to a Liquidity Facility.

**“Liquidity Facility”** means any liquidity agreement for the benefit of the Conduit Lender.

**“Liquidity Prepayment Amount”** means (i) with respect to a Department Put Event described in clause (i) of the definition of “Department Put Event,” the Funding Note Issuer’s Ratable Liquidity Draw Percentage of the requested Liquidity Advance that was not made when due and (ii) with respect to a Department Put Event described in clause (ii) of the definition of “Department Put Event,” the Funding Note Issuer’s Ratable Liquidity Draw Percentage of the outstanding principal amount of the related Liquidity Advance on the Required Liquidity Prepayment Date.

**“Liquidity Prepayment Notice”** means a notice substantially in the form of Exhibit E.

**“Loan Data Schedule”** means the schedule completed by the [applicable] [Seller] [Funding Note Issuer] and delivered to the Department (in the form attached as Exhibit V-1) that lists, by academic year, with respect to such [Seller’s] [Funding Note Issuer’s] Relevant Loan Portfolio, (i) the average Principal Balance of such Student Loans, (ii) the type of school with respect to which such Student Loans were made expressed as a percentage of such Relevant Loan Portfolio (i.e. two-year, four-year or proprietary institution), (iii) the payment status of such Student Loans expressed as a percentage of such Relevant Loan Portfolio (i.e. in-school, repayment, grace period, deferment or forbearance) and (iv) the loan type of such Student Loans expressed as a percentage of such Relevant Loan Portfolio (i.e. Subsidized Stafford Loan, PLUS Loan or Unsubsidized Stafford Loan).

**“Loan Designation Notice”** means a certificate substantially in the form of Exhibit S.

**“Loan Documents”** means with respect to each Student Loan, the following documents:

- (a) a copy of the loan application if a separate application was provided to the [Funding Note Issuer] [[applicable] Seller];
- (b) a copy of the signed Promissory Note;
- (c) the repayment schedule;
- (d) a record of each disbursement;
- (e) notices of changes in a Borrower’s address and status as at least a half-time student;
- (f) if applicable, evidence of the Borrower’s eligibility for any current period of deferment;
- (g) if applicable, the documents required for any current exercise of forbearance;
- (h) documentation of the assignment of the loan, if any;

(i) if applicable, a payment history showing the date and amount of each payment received from or on behalf of the Borrower, and the amount of each payment that was attributed to principal, interest, late charges, and other costs;

(j) a collection history showing the date and subject of each communication between the [Funding Note Issuer] [[applicable] Seller] and the Borrower or endorser relating to collection of a delinquent Financed Student Loan, each communication other than regular reports by the [Funding Note Issuer] [[applicable] Seller] showing that an account is current, between the [Funding Note Issuer] [[applicable] Seller] and a credit bureau regarding the loan, each effort to locate a Borrower whose address is unknown at any time, and each request by the Borrower for default aversion assistance on the Financed Student Loan;

(k) documentation of any Promissory Note confirmation process or processes;

(l) any additional records that are necessary to document the validity of a claim against the guarantee or the accuracy of reports submitted by the [Funding Note Issuer] [[applicable] Seller]; and

(m) a statement identifying the name and location of the entity in possession of the original electronic Promissory Note (if applicable) and, if different, the name, company, address and contact information of the person who is able to provide the affidavit or certification described in 34 C.F.R. Section 682.414(a)(6)(i), including any necessary supporting documentation;

provided that with respect to Student Loans evidenced by electronically signed Promissory Notes, the documents described in clauses (k), (l) and (m) may instead be evidenced by delivering a “representative affidavit,” with full supporting material, that describes the procedures the Borrower used to make and hold a particular Student Loan and the procedures whereby the Funding Note Issuer [and [the] [each] Seller] will be able to meet any additional needs of the Conduit Lender or the Department for records supporting that Student Loan, and a certification that such representative affidavit describes the procedures that have been and will be used respecting all other Financed Student Loans (unless otherwise indicated respecting any such other Financed Student Loans, in which case a separate representative affidavit shall be provided). Such representative affidavit must be submitted to the Conduit Administrator, with a copy sent to the Department, by no later than January 15, 2010, or such later date as the Department may specify, for any Loan Designation Notice delivered prior to January 15, 2010, or such later date as the Department may specify, and for any Loan Designation Notice delivered on or after January 15, 2010, or such later date as the Department may specify, must be submitted with the related Loan Designation Notice. A representative affidavit shall be acceptable only if it contains each of the following elements:

(i) A cover letter on the [Funding Note Issuer’s]<sup>59</sup> [[related] Seller’s] letterhead and signed by an Authorized Officer that contains the following: (a) a statement as to the Authorized Officer’s authority to represent the [Funding Note Issuer] [[related] Seller], (b) a statement that the Authorized Officer has no knowledge or information that would contradict the information in the representative affidavit and (c) a contact name, phone and address of the Person responsible for resolving any identified issues.

(ii) A statement signed by a Person with direct knowledge of the electronic signature process used by Borrowers to execute the related Promissory Notes that includes the following: (a) information on the position or role held by such Person at the time he or she acquired such knowledge, (b) an explanation on how such Person acquired the knowledge to provide a reliable explanation of the electronic signature process, (c) an attestation of the validity of the documentation contained the representative affidavit package, (d) an affirmation that the representative affidavit package accurately reflects the electronic signature process and (e) the name and location of the entity in possession of any original electronic Promissory Notes and other supporting documentation.

(iii) A narrative description of the steps followed by a Borrower to execute the electronic Promissory Notes.

(iv) An annotated copy of each computer screen as it appeared to the Borrower when signing the Promissory Note electronically.

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<sup>59</sup> Use first option for Eligible Direct Issuers and second option for SPV Funding Note Issuers throughout this clause (i).

(iv) A description of the field edits and any other security measures used to ensure the integrity of the data submitted to the originator electronically.

(v) A description of how the executed Promissory Note has been preserved so as to ensure that it could not be altered after it was executed.

(vi) A narrative description of the process used to authenticate a Borrower's identity, the composition of the electronic signature and the method used to affix such electronic signature.

***“Loan Participation Purchase Program”*** means the program enacted pursuant to Section 459A of the Higher Education Act under which the Department purchases participation interests in FFELP student loans held by Eligible Lenders, acting as sponsors, that have elected to participate in such program pursuant to a master participation agreement.

***“Loan Pledge Allocation Criteria”*** means the following criteria, which shall be used by the Funding Note Issuer to select Student Loans to be pledged to the Conduit Lender hereunder:

- (a) if the Proposed Pool contains an amount of Student Loans that is less than the Relevant Loan Portfolio of a particular Servicer then servicing the Student Loans in such Funding Note Issuer's Relevant Loan Portfolio, the Funding Note Issuer shall select Student Loans for sale or pledge from the Relevant Loan Portfolio of each such Servicer at random (selected in the manner specified by the Funding Note Issuer to, and approved by, the Department prior to such selection) within each applicable academic year; and
- (b) the following conditions conducted in sequential order for each Proposed Pool:
  - (i) if the Proposed Pool of Student Loans selected in accordance with clause (a) does not meet the Threshold Test with respect to the average Principal Balance, the Funding Note Issuer shall remove Student Loans from such Proposed Pool until it meets the Threshold Test with respect to the average Principal Balance, starting with, if the Proposed Pool exceeds the Threshold Test, the Student Loan with the highest Principal Balance and then the next highest Principal Balance (and so on) and, if the Proposed Pool was less than the Threshold Test, the Student Loan with the lowest Principal Balance and then the next lowest Principal Balance (and so on);
  - (ii) if the resultant Proposed Pool of Student Loans selected in accordance with clause (i) above does not meet the Threshold Test with respect to each category of school type, the Funding Note Issuer shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool does not meet the Threshold Test with respect to the remaining categories of school type, it shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test until the Threshold Test is met with respect to each category of school type;
  - (iii) if the resultant Proposed Pool of Student Loans selected in accordance with clauses (i) and (ii) above does not meet the Threshold Test with respect to each category of payment status, the Funding Note Issuer shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool of Student Loans does not meet the Threshold Test with respect to the remaining categories of payment status, it shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, and so on by category, until the Threshold Test is met with respect to each category of payment status; and
  - (iv) if the resultant Proposed Pool of Student Loans selected in accordance with clauses (i) through (iii) above does not meet the Threshold Test with respect to each category of

loan type, the Funding Note Issuer shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool does not meet the Threshold Test with respect to the remaining categories of loan type, it shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test until the Threshold Test is met with respect to each category of loan type;

provided, however, that if the Proposed Pool of Student Loans was selected at random from the Relevant Loan Portfolio of all Servicers then servicing the Relevant Loan Portfolio of the Funding Note Issuer, the Funding Note Issuer need not comply with clauses (b)(i) through (iv) above. If the Funding Note Issuer is required to perform the Threshold Tests on a Proposed Pool, the initial Proposed Pool selected may be larger than the intended Proposed Pool to take into account Student Loans that may be removed during the testing steps. If the aggregate Principal Balance of the final Proposed Pool after testing and removal exceeds the intended size of the Proposed Pool, the Funding Note Issuer may remove Student Loans at random until the intended size is achieved.

Notwithstanding anything to the contrary herein, each Proposed Pool of Student Loans pledged to the Conduit Lender must include either all or none of the Eligible Loans made to any related Borrower (i.e. “by account”) other than Restricted Loans as described in clause (ii) of the definition thereof.<sup>60</sup>

“**Loan Purchase Commitment Program**” means the program enacted pursuant to Section 459A of the Higher Education Act under which the Department purchases FFELP student loans from Eligible Lenders that have elected to participate in such program, pursuant to a master loan sale agreement.

“**Loan Put Allocation Criteria**” means (i) with respect to Putable Loans sold and purchased pursuant to a bill of sale as of any Department Put Date (other than with respect to a Department Put Event under clauses (iv) and (v) of the definition thereof) a random selection by the Funding Note Issuer (selected in the manner specified below) and an allocation by the Conduit Administrator, pro rata, with respect to each funding note issued by a Program Funding Note Issuer and owned by the Conduit Lender as of such Department Put Date and (ii) with respect to Putable Loans sold and purchased pursuant to a bill of sale as of any Department Put Date under clause (iv) of the definition thereof, a random selection by the Funding Note Issuer (selected in the manner specified below); provided, that notwithstanding anything to the contrary, each pool of Putable Loans sold and purchased pursuant to a bill of sale must include either all or none of the Student Loans made to any related Borrower (i.e. “by account”). Student Loans required to be selected at random pursuant to this definition shall be selected on a random basis (in the manner approved by the Department) from the aggregate pool of Financed Student Loans owned by the Funding Note Issuer.

“**Loan Release Allocation Criteria**” means the following criteria, which shall be used by the Funding Note Issuer to select Financed Student Loans to be released from the lien of the Conduit Lender in accordance with Section 1.03(e):

- (a) the Funding Note Issuer shall select Financed Student Loans to be released from the lien of the related Funding Note at random (selected in the manner specified by the Funding Note Issuer to, and approved by, the Department prior to such selection) within each applicable academic year; and
- (b) the following conditions conducted in sequential order for each Proposed Pool:
  - (i) if the Proposed Pool of Student Loans selected in accordance with clause (a) does not meet the Threshold Test with respect to the average Principal Balance, the Funding Note Issuer shall remove Student Loans from such Proposed Pool until it meets the Threshold Test with respect to the average Principal Balance, starting with, if the Proposed Pool exceeds the Threshold Test, the Student Loan with the highest Principal Balance and then the next highest Principal Balance (and so on) and, if the Proposed Pool was less than the

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<sup>60</sup> Omit definition if Funding Note Issuer is not an Eligible Direct Issuer.

Threshold Test, the Student Loan with the lowest Principal Balance and then the next lowest Principal Balance (and so on);

- (ii) if the resultant Proposed Pool of Student Loans selected in accordance with clause (i) above does not meet the Threshold Test with respect to each category of school type, the Funding Note Issuer shall randomly (in the manner approved by the Department) remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool does not meet the Threshold Test with respect to the remaining categories of school type, it shall randomly (in the manner approved by the Department) remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test until the Threshold Test is met with respect to each category of school type;
- (iii) if the resultant Proposed Pool of Student Loans selected in accordance with clauses (i) and (ii) above does not meet the Threshold Test with respect to each category of payment status, the Funding Note Issuer shall randomly (in the manner approved by the Department) remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool of Student Loans does not meet the Threshold Test with respect to the remaining categories of payment status, it shall randomly (in the manner approved by the Department) remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, and so on by category, until the Threshold Test is met with respect to each category of payment status; and
- (iv) if the resultant Proposed Pool of Student Loans selected in accordance with clauses (i) through (iii) above does not meet the Threshold Test with respect to each category of loan type, the Funding Note Issuer shall randomly (in the manner approved by the Department) remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool does not meet the Threshold Test with respect to the remaining categories of loan type, it shall randomly (in the manner approved by the Department) remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test until the Threshold Test is met with respect to each category of loan type.

provided, that, each Proposed Pool of Student Loans selected to be released from the lien of the Conduit Lender must include either all or none of the Eligible Loans made to any related Borrower (i.e. “by account”) other than Restricted Loans as defined in clause (ii) of the definition thereof.

**“Loan Removal Data Schedule”** means a schedule (in the form provided by the Department) that lists, by academic year, with respect to the Student Loans then securing the related Funding Note, (i) the average Principal Balance of such Financed Student Loans, (ii) the type of school with respect to which such Financed Student Loans were made expressed as a percentage of the related Financed Student Loans (i.e. two-year, four-year or proprietary institution), (iii) the payment status of such Financed Student Loans expressed as a percentage of the related Financed Student Loans (i.e. in-school, repayment, grace period, deferment or forbearance) and (iv) the loan type of such Student Loans expressed as a percentage of the related Financed Student Loans (i.e. Subsidized Stafford Loan, PLUS Loan or Unsubsidized Stafford Loan).

**“Loan Sale Allocation Criteria”** means the following criteria, which shall be used by [the] [any] Seller to select Student Loans to be sold to the Funding Note Issuer under the Student Loan Purchase Agreement[s]:

- (a) if a Proposed Pool contains an amount of Student Loans that is less than the Relevant Loan Portfolio of a particular Servicer then servicing the Student Loans in the [relevant] Seller’s Relevant Loan Portfolio, the [relevant] Seller shall select Student Loans for sale from the Relevant Loan Portfolio of each such Servicer at random (selected in the manner specified by the [related]

Seller to, and approved by, the Department prior to such selection) within each applicable academic year; and

- (b) the following conditions conducted in sequential order for each Proposed Pool:
- (i) if the Proposed Pool of Student Loans selected in accordance with clause (a) does not meet the Threshold Test with respect to the average Principal Balance, the [relevant] Seller shall remove Student Loans from such Proposed Pool until it meets the Threshold Test with respect to average Principal Balance, starting with, if the Proposed Pool exceeds the Threshold Test, the Student Loan with the highest Principal Balance and then the next highest Principal Balance (and so on) and, if the Proposed Pool was less than the Threshold Test, the Student Loan with the lowest Principal Balance and then the next lowest Principal Balance (and so on);
  - (ii) if the resultant Proposed Pool of Student Loans selected in accordance with clause (i) above does not meet the Threshold Test with respect to each category of school type, the [relevant] Seller shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool does not meet the Threshold Test with respect to the remaining categories of school type, it shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test until the Threshold Test is met with respect to each category of school type;
  - (iii) if the resultant Proposed Pool of Student Loans selected in accordance with clauses (i) and (ii) above does not meet the Threshold Test with respect to each category of payment status, the [relevant] Seller shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool does not meet the Threshold Test with respect to the remaining categories of payment status, it shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, and so on by category, until the Threshold Test is met with respect to each category of payment status; and
  - (iv) if the resultant Proposed Pool of Student Loans selected in accordance with clauses (i) through (iii) above does not meet the Threshold Test with respect to each category of loan type, the [relevant] Seller shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test by the greatest amount, until such category meets the Threshold Test, then, if such Proposed Pool does not meet the Threshold Test with respect to the remaining categories of loan type, it shall randomly remove Student Loans from the category the Category Percentage of which exceeds the Threshold Test until the Threshold Test is met with respect to each category of loan type;

provided, however, that if the Proposed Pool of Student Loans was selected at random from the Relevant Loan Portfolio of all Servicers then servicing the Relevant Loan Portfolio of such [relevant] Seller, the [relevant] Seller need not comply with clauses (b)(i) through (iv) above. If the [related] Seller is required to perform the Threshold Tests on a Proposed Pool, the initial Proposed Pool selected may be larger than the intended Proposed Pool to take into account Student Loans that may be removed during the testing steps. If the aggregate Principal Balance of the final Proposed Pool after testing and removal exceeds the intended size of the Proposed Pool, the [relevant] Seller may remove Student Loans at random until the intended size is achieved. Notwithstanding anything to the contrary herein, each Proposed Pool of Student Loans sold to the Funding Note Issuer must include

either all or none of the Eligible Loans made to any related Borrower (i.e. “by account”) other than Restricted Loans as described in clause (ii) of the definition thereof.]<sup>61</sup>

“**Loan Transmittal Summary Forms**” means the form attached as Annex I to [each Bill of Sale and] each Loan Designation Notice, which lists, by Borrower, each Student Loan subject to the related [Bill of Sale] or Loan Designation Notice, including (i) the outstanding Principal Balance of each such Student Loan as of the related Cut-off Date, (ii) the Guarantor that Guarantees each Student Loan subject to the related [Bill of Sale or] Loan Designation Notice[, as applicable], (iii) the Servicer that services each Student Loan subject to the related [Bill of Sale or] Loan Designation Notice[, as applicable], (iv) notice information for the Servicer that services each Student Loan subject to the related [Bill of Sale or] Loan Designation Notice[, as applicable,] and (v) information relating to the type of school with respect to which the Student Loans were made.

“**Lower Boundary**” means an amount equal to the sum of (i) the applicable Sample Mean minus (ii) the product of (A) 1.96 and (B) the applicable Standard Error.

“**Management Agreement**” means the management agreement between the Manager and the Conduit Lender.

“**Manager**” means BMO Capital Markets Corp., a company organized under the laws of the State of Delaware, and its successors and assigns.

“**Mandatory Final Prepayment Date**” means November 19, 2013 or, one or more Business Days thereafter as determined by the Manager, which date(s) shall be no later than forty-six (46) days prior to the Put Expiration Date (or such earlier date as shall be necessary to ensure that the Department Put Date with respect to any Department Put Event occurring on such Mandatory Final Prepayment Date would occur prior to the Put Expiration Date). The Manager, in its sole discretion, will assign Mandatory Final Prepayment Dates for the funding notes issued by all Program Funding Note Issuers and may assign multiple Mandatory Final Prepayment Dates to a single Program Funding Note Issuer, each of which will apply to a specific portion of the outstanding funding notes of such Program Funding Note Issuer; provided that the aggregate amount of funding notes maturing on any day may not exceed the Daily Put Limit. The Manager will assign the Mandatory Final Prepayment Dates by no later than October 18, 2013.

[“**Market Adjustment**” means, as of any date of determination and any Commitment Amount, the lesser of (a) one (1) and (b) the percentage equivalent of a fraction, (i) the numerator of which is the annualized aggregate original principal balance of all Student Loans originated by all Eligible Lenders (as shown on the Department’s NSLDS system) during the period commencing with the month immediately following the month of the applicable pledge of Student Loans to the Conduit Lender and ending at the end of the twenty-fourth month after such pledge (or at the end of the preceding month if less than twenty-four months have elapsed since such pledge), and (ii) the denominator of which is the aggregate original principal balance of all Student Loans originated by all Eligible Lenders (as shown on the Department’s NSLDS system) during the twelve month period ending with the month immediately preceding the month of the applicable pledge of Student Loans to the Conduit Lender.]<sup>62</sup>

“**Master Servicer**” means [ ], a [ ].<sup>63</sup>

“**Master Servicer Indemnified Amounts**” has the meaning specified in Section 7.03(a).

“**Material Adverse Effect**” means a material adverse effect on:

- (a) with respect to the Funding Note Issuer, the status, existence, perfection, priority or enforceability of the Conduit Lender’s or the Conduit Lender Eligible Lender Trustee’s interest in the Pledged

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<sup>61</sup> Delete for Eligible Direct Issuers.

<sup>62</sup> Insert bracketed text for an Eligible Direct Issuer.

<sup>63</sup> The “Master Servicer” is intended to be an Affiliated Servicer that performs duties typical of a master servicer, or, if no Affiliate is performing such duties, then the Sponsor will also sign the Agreement in the capacity of Master Servicer.

Collateral or the ability of the Funding Note Issuer to perform its obligations under this Agreement or any other Transaction Document or the ability to collect on a material portion of the Pledged Collateral; or

- (b) with respect to any other Person, the ability of the applicable Person to perform its obligations under this Agreement or any other Transaction Document.

**“Material Servicer”** means any Affiliated Servicer and any other Servicer responsible for servicing more than 10% of the Financed Student Loans by aggregate Principal Balance.

**“Membership Interest”** has the meaning assigned to such term in the Funding Note Issuer’s limited liability company agreement.

**“Minimum Asset Coverage Ratio”** means 100%.

**“Monthly Conduit Administrator’s Report”** means the report to be delivered by the Conduit Administrator pursuant to Section 1.05(b) in substantially the form of Exhibit B hereto.

**“Monthly Remittance Condition”** means, with respect to any Affiliated Servicer, that (a) no Servicer Default or Potential Event of Default relating to a Servicer Default has occurred and is continuing with respect to such Servicer and (b) the short term unsecured debt of such Servicer is rated by [S&P] [and] [Moody’s] and is rated (i) [“A-1” or better by S&P,] (ii) [“P-1” or better by Moody’s] and (iii) [if rated by Fitch, “F1” or better by Fitch]<sup>64</sup>.

**“Monthly Servicer Report”** means a report substantially in the form of Exhibit A to each Servicing Agreement.

**“Monthly Servicing Fee Cap”** means, with respect to any Settlement Date, the aggregate for all Student Loans that were Financed Student Loans as of the last day of the preceding Settlement Period, of the product of (a) the number of days during such Settlement Period during which each such Student Loan was a Financed Student Loan, divided by 360, (b) .70% and (c) the Principal Balance of each such Financed Student Loan as of the first day of the preceding Settlement Period (or, if later, the Cut-off Date for each such Financed Student Loan).

**“Moody’s”** means Moody’s Investors Service, Inc. (or its successors in interest).

**“Multiemployer Plan”** means a “multiemployer plan” as defined in Section 4001(a)(3) of ERISA which is or was at any time during the current year or the immediately preceding six years contributed to by the Funding Note Issuer or any ERISA Affiliate.

**“Negative Special Allowance Payments”** means any special allowance payments rebate on FFELP student loans required to be made by the holder of any such loan pursuant to Section 438 of the Higher Education Act.

**“Net Cash Advance Amount”** means, except in the case of a Required Payment Advance, on any Advance Date, the excess of the Advance Amount on such Advance Date minus the sum of (i) the amount needed to increase the Reserve Account to the Reserve Account Specified Balance, (ii) reimbursement of the Transaction Costs relating to such Advance, (iii) the Startup Costs Allocation (if any) relating to such Advance, (iv) any Estimated Excess Accrual for any prior calendar month to the extent not previously deposited to the DOE Reserve Account on any Settlement Date on or prior to the Advance Date and any amounts owing to the Department with respect to the Financed Student Loans or otherwise owed to the Department by the Funding Note Issuer in connection with the transactions contemplated by this Agreement to the extent sufficient funds have not been deposited into the DOE Reserve Account to pay such amounts and (v) any amount required to be deposited to the Excluded Borrower Benefits Account.

[**“Net Cash Proceeds”** means an amount equal to (a) the cash proceeds received by the Funding Note Issuer from the pledge of Student Loans to the Conduit Lender (including cash proceeds received from the sale and/or

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<sup>64</sup> References to the rating of any rating agency that is not a “Rating Agency” for the Funding Note may be deleted.

pledge of Additional Securities) together with any reserves or expenses withheld or paid from the proceeds of the sale of the related Securities (“Cash Proceeds”), minus (b) the amount paid by the Funding Note Issuer in connection with such pledge of the Student Loans to repay indebtedness secured by the Student Loans or, with respect to any Student Loans that are not pledged to secure indebtedness of the Funding Note Issuer, the Deemed Liabilities allocated to such Student Loans.]<sup>65</sup>

“*New Reporting or Retention Requirements*” has the meaning assigned to such term in Section 12.19.]<sup>66</sup>

“*New York UCC*” means the New York Uniform Commercial Code as in effect from time to time.

“*Note Register*” has the meaning specified in Section 2.02.

“*Notice of Intent to Participate*” means a notice in the form of Exhibit L.

“*Notice of Release*” means a notice in substantially the form of Exhibit C.

“*Notice of Required Payment Advance*” means a notice in substantially the form of Exhibit W.

“*NYC Loan*” means, unless (i) the Funding Note Issuer obtains a license to operate as a “Debt Collection Agency” as required by Title 20 of the New York City Administrative Code or (ii) Title 20 of the New York City Administrative Code is amended or interpreted by official guidance such that the Funding Note Issuer is not a “Debt Collection Agency” as defined therein, a Student Loan the related Borrower of which has a mailing address in the City of New York as of the Grant Date.]<sup>67</sup>

“*Obligations*” means all present and future indebtedness and other liabilities and obligations (howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, or due or to become due) of the Funding Note Issuer to the Affected Parties, arising under or in connection with this Agreement or any other Transaction Document or the transactions contemplated hereby or thereby and shall include, without limitation, all liability for principal of and Ratable Financing Costs on the Funding Note, closing fees, unused line fees, audit fees, expense reimbursements, indemnifications, and other amounts due or to become due under the Transaction Documents, including, without limitation, interest, fees and other obligations that accrue after the commencement of an insolvency proceeding (in each case whether or not allowed as a claim in such insolvency proceeding).

“*Officer’s Certificate*” means a certificate signed and delivered by an Authorized Officer.

“*Official Body*” means any government or political subdivision or any agency, authority, bureau, central bank, commission, department or instrumentality of any such government or political subdivision, or any court, tribunal, grand jury or arbitrator, or any accounting board or authority (whether or not a part of government) which is responsible for the establishment or interpretation of national or international accounting principles, in each case whether foreign or domestic.

“*Opinion of Counsel*” means an opinion in writing of legal counsel, who may be counsel or special counsel to the Funding Note Issuer, any Affiliate of the Funding Note Issuer, [the Eligible Lender Trustee,] [the SPV Administrator,] the Manager, the Conduit Administrator or the Conduit Lender, as the case may be.

“*Other Conduit Costs*” means amounts payable by the Conduit Lender pursuant to the Administration Agreement in respect of Variable Put Fees and any other fees, expenses, indemnities and other amounts payable by the Conduit Lender pursuant to the Administration Agreement that are subordinate to Variable Put Fees in right to payment from available funds of the Conduit Lender.

“*Other Taxes*” means any and all stamp, documentary or similar taxes, or any other excise or property taxes or similar levies that arise on account of any payment being or being required to be made hereunder or under

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<sup>65</sup> Bracketed text to be inserted for Eligible Direct Issuers.

<sup>66</sup> Insert if an existing Funding Note Purchase Agreement is being amended and restated to incorporate revisions to the form Funding Note Purchase Agreement as in effect on April [\_\_\_], 2010.

<sup>67</sup> Include for Funding Note Issuers that are SPVs.

any Funding Note or from the execution, delivery, registration, recording or enforcement of this Agreement or any Transaction Document or the Department Put Agreement.

“**Patriot Act**” has the meaning assigned to such term in Section 12.18.

“**PBGC**” means the Pension Benefit Guaranty Corporation established pursuant to Subtitle A of Title IV of ERISA (or any successor).

“**Person**” means an individual, partnership, corporation, limited liability company, joint stock company, trust, unincorporated association, joint venture, government or any agency or political subdivision thereof or other entity.

“**Pledged Collateral**” has the meaning specified in Section 1.08.

“**PLUS Loan**” means a student loan described in Section 428B of the Higher Education Act and shall include student loans to parents, designated as “PLUS Loans” or student loans to graduate or professional students, designated as “Grad PLUS Loans.”

“**Portfolio Criteria**” means the criteria for the Financed Student Loans set forth in the most recently executed Reserve and Portfolio Criteria Supplement.

“**Portfolio Summary**” means the schedule completed by the [applicable] [Seller] [Funding Note Issuer] and delivered to the Department (in the form attached as Exhibit V-2).

“**Potential Event of Default**” means an event which but for the lapse of time or the giving of notice, or both, would constitute an Event of Default.

“**Power of Attorney**” means that certain Power of Attorney of the Funding Note Issuer [or [the] [such] Seller, as applicable,] dated as of the Closing Date, appointing The Bank of New York Mellon, as Conduit Administrator, and Straight-A Funding, LLC, as Conduit Lender as the Funding Note Issuer’s [or [the] [such] Seller’s, as applicable,] attorney-in-fact in the form attached hereto as Exhibit K.

“**Principal Balance**” means, with respect to any Student Loan and any specified date, the outstanding principal amount of such Student Loan, plus all accrued and unpaid interest thereon to be capitalized.

“**Prior Transferor**” means, with respect to a Financed Student Loan, any Person that at any time owned such Financed Student Loan prior to the transfer thereof to the Funding Note Issuer.

“**Program Funding Note Issuer**” means any funding note issuer that has funded purchases of Student Loans through the Conduit Lender’s Securities issuance program.

“**Program Support Agreement**” means any liquidity agreement or any other agreement entered into by any Program Support Provider providing for the making of loans and/or other extensions of liquidity to the Conduit Lender in connection with its Securities issuance program.

“**Program Support Provider**” means and includes any Person now or hereafter extending liquidity or having a commitment to extend liquidity to or for the account of, or to make purchases from, the Conduit Lender in support of Securities issued by the Conduit Lender or other instrument to support any obligations arising under or in connection with the Conduit Lender’s Securities issuance program.

“**Promissory Note**” means the master promissory note of the Borrower and any amendment thereto evidencing the Borrower’s obligation with regard to a Student Loan Guaranteed under the Higher Education Act, whether in hardcopy or electronic form, and that contains the terms required by the Higher Education Act and implementing regulations.

“**Proposed Pool**” means a pool of Student Loans from a single academic year proposed to be pledged pursuant to this Agreement [or sold pursuant to the [applicable] Student Loan Purchase Agreement, as applicable], or released pursuant to Section 1.03(e).

**“Putable Loan”** means any Financed Student Loan that (i) became a Financed Student Loan prior to the earlier of July 1, 2010 and the occurrence of an Event of Default, (ii) is a Stafford Loan or a PLUS Loan (and not a FFELP consolidation loan) and (iii) with respect to which the first disbursement thereon has been made on or after October 1, 2003 but no later July 1, 2009, and that was fully disbursed no later than September 30, 2009; provided, however, that a Financed Student Loan with respect to which an Authorized Re-Issuance has been made will not fail to be a Putable Loan solely because such Authorized Re-Issuance has been made.

**“Put Expiration Date”** means, with respect to all Student Loans, January 19, 2014.

**“Put Notice”** means the notice the Conduit Administrator delivers to the Department under the Department Put Agreement upon the occurrence of a Department Put Event.

**“Ratable Financing Costs”** means, for any Yield Period, the result of (a) the product of (i) the Conduit Financing Costs for such Yield Period, *multiplied by* (ii) the quotient of (x) the sum of the Ratable Percentages for all days during such Yield Period, *divided by* (y) the number of days during such Yield Period, *plus or minus* (b) the Estimated Financing Costs Adjustment, if and as applicable.

**“Ratable Other Conduit Costs”** means for any Yield Period, the sum of (a) the product of (i) the Other Conduit Costs for such Yield Period, *multiplied by* (ii) the quotient of (x) the sum of the Ratable Percentages for all days during such Yield Period, *divided by* (y) the number of days during such Yield Period.

**“Ratable Liquidity Draw Percentage”** means, with respect to any Liquidity Advance, the Funding Note Issuer’s Ratable Percentage immediately prior to the making of such Liquidity Advance.

**“Ratable Percentage”** means, for any day, the quotient (expressed as a percentage) of (a) the Funding Note Balance, *divided by* (b) the aggregate unpaid principal amount (including capitalized ratable financing costs) of all outstanding notes evidencing advances made by the Conduit Lender to Program Funding Note Issuers.

**“Rating Agencies”** means [Moody’s, S&P and Fitch]<sup>68</sup>.

**“Records”** means all documents, books, records, Promissory Notes and other information (including without limitation, computer programs, tapes, disks, punch cards, data processing software and related property and rights) maintained with respect to Financed Student Loans or otherwise in respect of the Pledged Collateral.

**“Recoveries”** means amounts collected from whatever source with respect to any Liquidated Student Loan which was written off in prior Settlement Periods or during the current Settlement Period, net of the sum of any amounts expended by the applicable Servicer with respect to such Student Loan for the account of any Borrower and any amounts required by law to be remitted to any Borrower.

**“Regulatory Change”** means, relative to any Affected Party:

- (a) after the date of this Agreement, any change in or the adoption or implementation of, any new (or any new interpretation or administration of any existing):
  - (i) United States federal or state law or foreign law applicable to such Affected Party;
  - (ii) regulation, interpretation, directive, requirement, guideline or request (whether or not having the force of law) applicable to such Affected Party of (A) any court or Governmental Authority charged with the interpretation or administration of any law referred to in clause (a)(i) above or (B) any fiscal, monetary or other authority having jurisdiction over such Affected Party; or
  - (iii) generally accepted accounting principles or regulatory accounting principles applicable to such Affected Party and affecting the application to such Affected Party of any law,

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<sup>68</sup> Two ratings will be required for each Funding Note.

regulation, interpretation, directive, requirement, guideline or request referred to in clause (a)(i) or (a)(ii) above; or

- (b) any change after the date of this Agreement in the application to such Affected Party (or any implementation by such Affected Party) of any existing law, regulation, interpretation, directive, requirement, guideline or request referred to in clause (a)(i), (a)(ii) or (a)(iii) above.

**“Reimbursement Amount”** has the meaning specified in Section 4.03.

**“Reimbursement Event”** means, the occurrence of any of the following events:

- (i) any representation or warranty made or furnished by the Funding Note Issuer [or the Eligible Lender Trustee] pursuant to this Agreement shall prove to have been materially incorrect when made;
- (ii) a Student Loan is not an Eligible Loan on its Grant Date;
- (iii) any Financed Student Loan shall be subject to an Adverse Claim.

**“Reimbursement Event Fees and Expenses”** has the meaning specified in Section 4.03.

**“Released Collateral”** means any Pledged Collateral released from the Conduit Lender’s and Conduit Lender Eligible Lender Trustee’s lien pursuant to Section 1.03(e) or 4.05.

**“Relevant Loan Portfolio”** means the complete portfolio of Eligible Loans (not including Restricted Loans) (i) owned by the Funding Note Issuer [or [the] [, with respect to a Seller, such]<sup>69</sup> Seller] or (ii) serviced by a Servicer for the Funding Note Issuer [or [the] [such] Seller], as applicable.

**“Reportable Event”** means any of the events set forth in Section 4043(c) of ERISA, other than events for which the 30 day notice period has been waived.

[**“Repurchase Amount”** is defined in the [relevant] Student Loan Purchase Agreement.]

[**“Repurchase Event”** is defined in the [relevant] Student Loan Purchase Agreement.]

[**“Repurchase Event Fees and Expenses”** is defined in the [relevant] Student Loan Purchase Agreement.]

**“Required Liquidity Prepayment Date”** means (i) with respect to a Department Put Event described in clause (i) of the definition of “Department Put Event,” the fifth day following the failure to make a Liquidity Advance when due and (ii) with respect to a Department Put Event described in clause (ii) of the definition of “Department Put Event,” the forty-fifth (45<sup>th</sup>) day after the date on which the Liquidity Advance was made.

**“Required Payment Advance”** has the meaning specified in Section 1.02(f).

**“Reserve Account”** means the account identified as the “Reserve Account” in the certificate delivered by the Conduit Administrator pursuant to Section 1(a)(vi) of Appendix B on the Closing Date, or any account replacing such account.

**“Reserve Account Specified Balance”** means, for any Advance Date or Settlement Date, the amount specified on the most recently executed Reserve and Portfolio Criteria Supplement; provided, that the Manager, with the consent of the Conduit Advisory Committee, may specify a Reserve Account Specified Balance that is higher than the amount determined pursuant to this definition by notice to the Funding Note Issuer prior to the applicable Settlement Date or Advance Date.

**“Reserve and Portfolio Criteria Supplement”** means the most recently executed supplement to this Agreement in the form of Exhibit X attached hereto; provided that each Rating Agency shall have confirmed in

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<sup>69</sup> Insert if there are multiple Sellers.

writing to the Manager that such supplement would not cause such Rating Agency to withdraw the rating of the Funding Note or lower the rating of the Funding Note to below “AAA” or its equivalent.

[“**Restatement Effective Date**” means [\_\_\_\_], 2010.]<sup>70</sup>

“**Restricted Loan**” means any Student Loan that may not be [sold or] pledged pursuant to the Funding Note Purchase Agreement [and [the] [any] Student Loan Purchase Agreement] because (i) the servicing agreement under which such Student Loan is serviced provides that the servicing rights created therein are not transferable in the manner required by the Department Put Agreement or (ii) such Student Loan is subject to a financing arrangement the program documents of which contain restrictions on the transferability of such Student Loan, such Student Loan is included in a term securitization or in the Loan Purchase Commitment Program or Loan Participation Purchase Program; provided, that, the Funding Note Issuer [or [the] [any] Seller] may deem a Student Loan not a Restricted Loan by delivering a notice in the form of Exhibit Y attached hereto to the Conduit Administrator; provided further that, if a Student Loan is designated as a Restricted Loan, it shall not be eligible to be included in a Relevant Loan Portfolio thereafter, unless (a) the Funding Note Issuer [or [the] [relevant] Seller] notifies the Conduit Administrator pursuant to the notice in the form of Exhibit Y attached hereto that such Student Loan is no longer a Restricted Loan within ninety (90) days of such designation or (b) such Student Loan was a Restricted Loan pursuant to clause (ii) above and the Funding Note Issuer [or the [relevant] Seller] has subsequently obtained the ability to acquire, and includes in its next Relevant Loan Portfolio, all of the Student Loans in such financing or securitization.

“**Revocation Date**” means (a) with respect to an event described in clauses (i) through (iv) and (vi) of the definition of “Department Put Event”, fifteen (15) days after the delivery to the Department of a Put Notice and (b) with respect to an event described in clause (v) of the definition of Department Put Event, thirty (30) days after the date upon which such Department Put Event shall have occurred.

“**Revocation Notice**” means a notice in the form of Exhibit T.

“**S&P**” means Standard & Poor’s Ratings Service, a division of The McGraw-Hill Companies, Inc. (or its successors in interest).

“**Sample Mean**” means, with respect to the Proposed Pool and a category of Student Loans, (a) with respect to average Principal Balance, the average Principal Balance of the Student Loans in the Proposed Pool and (b) with respect to all other categories, the product of (i) the percentage of the Student Loans (by count) in such category in the Proposed Pool multiplied by (ii) the Sample Size.

“**Sample Size**” means the number of Student Loans in the Proposed Pool.

“**Schedule of Financed Student Loans**” means a listing of all Financed Student Loans delivered to and held by the Conduit Administrator (which Schedule of Financed Student Loans may be in the form of microfiche, CD-ROM, electronic or magnetic data file or other medium acceptable to the Conduit Administrator), as from time to time amended, supplemented, or modified, which Schedule of Financed Student Loans shall be the master list of all Financed Student Loans then comprising a part of the Pledged Collateral pursuant to this Agreement.

[“**Second-Tier Seller[s]**” means [each of] [[ ], a [ ].]]<sup>71</sup>

[“**Second-Tier Seller Eligible Lender Trustee[s]**” means [[ ], a [ ].]]<sup>72</sup>

[“**Second-Tier Student Loan Purchase Agreement**” [the Student Loan Purchase Agreement[s], dated as of the Closing Date, among [the][each] Second-Tier Seller, [the][related] Second-Tier Seller Eligible Lender Trustee, [the Funding Note Issuer and Eligible Lender Trustee, under which [the][related] Second-Tier Seller will transfer

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<sup>70</sup> Insert if an existing Funding Note Purchase Agreement is being amended and restated to incorporate revisions to the form Funding Note Purchase Agreement as in effect on April [\_\_], 2010.

<sup>71</sup> Include in a two-tier transaction.

<sup>72</sup> Include in a two-tier transaction.

certain Eligible Loans to Funding Note Issuer, together with all sale agreements, blanket endorsements and bills of sale executed pursuant thereto.]

“**Secretary**” means the Secretary of Education, and includes any official of the Department duly authorized to perform any function with respect to the transactions under the Department Put Agreement or the other Transaction Documents.

“**Securities**” means the Student Loan Short-Term Notes and Additional Securities issued by the Conduit Lender.

“**Securities Account**” has the meaning assigned to such term in Section 1.04(c).

“**Securities Act**” means the Securities Act of 1933, as amended.

“**Securities Intermediary**” means The Bank of New York Mellon, a New York banking corporation.

“**Security Release Certification**” means any release of lien documentation executed by the applicable lienholder with respect to one or more Student Loans in the form of Exhibit R (which form shall have been approved by the Department).

[“**Seller[s]**” means [each of [ [ ], a [ ].]] [the First-Tier Seller[s] and the Second-Tier Seller[s]<sup>73</sup>].

[“**Seller Eligible Lender Trustee[s]**” means [ [ ], a [ ] ] [the First-Tier Seller Eligible Lender Trustee[s] and the Second-Tier Seller Eligible Lender Trustee[s]<sup>74</sup>].]

[“**Seller Eligible Lender Trust Agreement**” means [the] [each] Seller Eligible Lender Trust Agreement between the [related] Seller and the [related] Seller Eligible Lender Trustee under which the [related] Seller Eligible Lender Trustee agrees to hold legal title to certain Student Loans for the benefit of the [related] Seller.]

[“**Seller Indemnified Amounts**” with respect to [the] [any] Seller, shall have the meaning specified in [the] [related] Student Loan Purchase Agreement.]

“**Senior Servicing Fees**” means any servicing fees payable to any Servicer by the Funding Note Issuer on any Settlement Date in an amount not to exceed the product of (a) 1/12 and (b) .70% of the aggregate of the Principal Balances of all Student Loans serviced by such Servicer (determined as of the last day of the preceding Settlement Period); provided that the Senior Servicing Fees payable to the Master Servicer on any Settlement Date shall not exceed the excess of (a) the Monthly Servicing Fee Cap, over (b) all other Senior Servicing Fees payable on such Settlement Date.

“**Servicer**” means any organization with which the Funding Note Issuer has entered into a Servicing Agreement with respect to the Financed Student Loans, with the prior written approval of the Conduit Administrator.

“**Servicer Default**” means (a) any Servicer shall fail in any material respect to perform or observe any term, covenant or agreement that is an obligation of such Servicer under its Servicing Agreement (other than as referred to in clause (b) below) and such failure continues unremedied for ten (10) days after (i) written notice thereof shall have been given by [the SPV Administrator,] the Conduit Administrator or the Manager to the Servicer or (ii) the Servicer has actual knowledge thereof; (b) any Servicer shall fail to make any payment or deposit to be made by it under its Servicing Agreement when due and such failure shall remain unremedied for two (2) Business Days; (c) any representation or warranty made or deemed to be made by any Servicer (or any of its officers) under or in connection with its Servicing Agreement or any information or report delivered pursuant to its Servicing Agreement shall prove to have been false or incorrect in any material respect when made; (d) an Event of Bankruptcy shall have occurred with respect to a Servicer; (e) a material adverse change in the condition (financial or otherwise), business or properties of the Servicer or in the ability of the Servicer to service and collect on the Financed Student Loans; or

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<sup>73</sup> Include second bracketed text option in two-tier transactions.

<sup>74</sup> Include second bracketed text option in two-tier transactions.

(f) (i) any litigation (including, without limitation, derivative actions), arbitration proceedings or governmental proceedings (whether or not existing at the time of the execution hereof) not disclosed in writing by [the SPV Administrator] [the Funding Note Issuer] to the Conduit Administrator and the Manager prior to the execution and delivery of this Agreement is pending against a Servicer or any of its Affiliates at the time of the execution thereof; or (ii) any material development not so disclosed has occurred in any such litigation or proceedings so disclosed, which in the case of clause (i) or (ii) above, in the opinion of the Conduit Administrator or the Manager has a material adverse effect on the ability of such Servicer to perform its obligations under its Servicing Agreement.

**“Servicing Agreement”** means any servicing agreement in the form of Exhibit M between the Funding Note Issuer and any Servicer (or between a Master Servicer, the Funding Note Issuer and any subservicer whereby the Affected Parties are expressly intended third-party beneficiaries), including any “Supplemental Servicing Agreement” identified therein, as any such agreement may be amended or supplemented from time to time with the prior written consent of the Department, the Conduit Administrator and the Manager, under which the respective Servicer agrees to administer and collect the Financed Student Loans in accordance with Department regulations and which agreement: (i) contains customary terms and conditions, including representations, warranties, covenants and events of default, that reflect a negotiated, arms-length transaction, (ii) includes an acknowledgement by the Servicer that the Department and the Conduit Lender (if the Conduit Lender is not a party to such Servicing Agreement) are the intended third party beneficiaries of such servicing agreement and that the Department, upon the purchase of any Student Loan serviced thereunder, is entitled to instruct the related Servicer and exercise remedies with respect to such Student Loan and (iii) provides that, upon the occurrence of a Department Put Event with respect to any Student Loan serviced thereunder, such agreement shall automatically terminate with respect to such Student Loan upon the relevant Department Put Date, unless the Department otherwise notifies the related Servicer as soon as reasonably practicable but not less than five (5) Business Days prior to the related Department Put Date, without any payment by the Department, the Conduit Lender or any other Person (except the Funding Note Issuer as provided in Section 1.05(c)(viii) or the Master Servicer if so provided in the related “Supplemental Servicing Agreement” identified therein) of any de-boarding, deconversion or related costs, penalties or fees to the related Servicer and that the servicing of such Student Loan shall be transferred as instructed by the Department.

**“Servicing Fees”** means any fees payable by the Funding Note Issuer to a Servicer in respect of servicing Financed Student Loans pursuant to the provisions of any Servicing Agreement.

**“Servicing Policies”** means, with respect to a Servicer, the policies and procedures required under the Higher Education Act and any other policies and procedures of such Servicer with respect to the servicing of Student Loans which are not inconsistent with the requirements of the Higher Education Act.

**“Settlement Date”** means the twenty-fifth (25<sup>th</sup>) day of each calendar month, beginning [ ], 20[ ] or, if such day is not a Business Day, the following Business Day. A Settlement Date “relates” to the Settlement Period falling in the prior calendar month.

**“Settlement Period”** means (i) initially the period commencing on the Closing Date and ending on [ ], 200[ ], and (ii) thereafter, each calendar month.

**“SLS Loans”** means a Student Loan originated under the authority set forth in Section 428A (or a predecessor section thereto) of the Higher Education Act and shall include Student Loans designated as “SLS Loans,” as defined under the Higher Education Act.

**“Sold Loans Account”** means the account identified as the “*Sold Loans Account*” in the certificate delivered by the Conduit Administrator pursuant to Section 1(a)(vi) of Appendix B on the Closing Date, or any account replacing such account.

**“Special Allowance Payments”** means special allowance payments on Student Loans authorized to be made by the Department pursuant to Section 438 of the Higher Education Act.

**“Specified Week”** means the period of time beginning on Saturday and ending on, but excluding the following Saturday.

**“Sponsor”** means [ ], a [ ].

["**SPV Administration Agreement**"] means the SPV Administration Agreement, dated as of the Closing Date, between [[the] [each] Seller and the SPV Administrator, pursuant to which [[the] [each] Seller appoint[s] the SPV Administrator to perform [[the] [each] Seller's duties under certain Transaction Documents and various other additional services.]

["**SPV Administrator**"] means [ ], a [ ], and its successors and assigns, in its capacity as SPV Administrator of the Funding Note Issuer.]

["**SPV Administrator Fee**"] means, for each calendar month, a fee payable to the SPV Administrator monthly in arrears on each Settlement Date equal to \$[ ].]

["**SPV Administrator Indemnified Amounts**"] has the meaning assigned to such term in Section 7.02.]

["**SPV Administrator Material Adverse Effect**"] has the meaning assigned to such term in Appendix F.]

"**Stafford Loan**" means a Subsidized Stafford Loan or an Unsubsidized Stafford Loan.

"**Standard Error**" means, with respect to the Proposed Pool and a category of Student Loans, the square root of the applicable Variance divided by the square root of the Sample Size.

"**Startup Cost Account**" means an account of the Manager established and maintained by the Conduit Administrator, for the purpose of receiving deposits of Startup Costs Allocations.

"**Startup Costs**" means all costs of the Conduit Lender in connection with the creation of the Conduit Lender and the commencement of the Conduit Lender's Securities issuance program.

"**Startup Costs Allocation**" means, with respect to any Advance Date occurring prior to the later of (x) July 1, 2010 and (y) the date on which all Startup Costs of the Conduit Lender have been paid in full, an amount payable by the Funding Note Issuer to the Manager equal to the product of (i) 0.04%, multiplied by (ii) the amount of the increase, if any, in the Highest Funding Note Balance of the Funding Note on such Advance Date.

"**Structuring Agent**" means each of Citibank, N.A. and Morgan Stanley & Co. Incorporated, each in its capacity as a structuring agent for the Conduit Lender.

"**Structuring Agent Fee**" means the sum of all Calculation Date Structuring Fees of the Funding Note Issuer.

"**Structuring Fee Rate**" means, (a) for any Calculation Date until the Highest Funding Note Balance is \$100 million, 0%, (b) for any Calculation Date thereafter until the Highest Funding Note Balance is at least \$5.1 billion, 0.10%, and (c) thereafter, 0.05%.

"**Student Loan**" means a Stafford Loan or a PLUS Loan (and not a FFELP consolidation loan) that was made to a student or, in the case of a parent PLUS Loan, made to a parent of a dependent student, evidenced by a Promissory Note and all other related Loan Documents together with any guaranties and other rights relating thereto including, without limitation, Interest Subsidy Payments and Special Allowance Payments, together with the servicing rights related thereto.

["**Student Loan Purchase Agreement[s]**"] means [the Student Loan Purchase Agreement[s], dated as of the Closing Date, among [the] [each] Seller, [[the] [each] Seller Eligible Lender Trustee], the Funding Note Issuer and the Eligible Lender Trustee, under which [the] [each] Seller will transfer certain Eligible Loans to the Funding Note Issuer, together with all sale agreements, blanket endorsements and bills of sale executed pursuant thereto.] [the First-Tier Student Loan Purchase Agreement[s] and the Second-Tier Student Loan Purchase Agreement[s].]]<sup>75</sup>

"**Student Loan Short-Term Notes**" means short-term promissory notes issued by the Conduit Lender.

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<sup>75</sup> Use first bracketed option for a one-tier transaction and second bracketed option for a two-tier transaction.

“**Subcustodian**” means a Servicer that has agreed to act as a subcustodian to hold the Loan Documents on behalf of the Conduit Lender and the Department pursuant to the Servicing Agreement to which such Servicer is a party.

[“**Subordinated Credit Facility**” has the meaning assigned to such term in the Student Loan Purchase Agreement[s].]<sup>76</sup>

“**Subsidized Stafford Loan**” means a student loan described in Section 428(a) of the Higher Education Act.

“**Summary Loan Put Schedule**” means the schedule (in a form approved by the Department and provided to each Servicer by the Conduit Administrator) listing Financed Student Loans selected for sale by the Funding Note Issuer in accordance with Section 1.03(c) or subject to sale as a result of the exercise of remedies by the Conduit Lender in accordance with Section 6.03, which schedule shall be prepared using the most current loan information available to the Servicers of the Financed Student Loans included in such Summary Loan Put Schedule and shall include (i) the loan number, (ii) the estimated Principal Balance and accrued interest (to the extent not included in the Principal Balance) of such Financed Student Loans [,] [and] (iii) [the applicable Seller and (iv)] any other information the Department may reasonably require including but not limited to certain identification numbers and dates relating to the Financed Student Loans listed in such Summary Loan Put Schedule.

“**Taxes**” means any and all sales, gross receipts, general corporation, tangible and intangible property, privilege or license, income, stamp or other taxes, duties, levies, imposts, charges, fees, deductions or withholdings, now or hereafter imposed, levied, collected, withheld or assessed by any Governmental Authority, and all interest, penalties or similar liabilities with respect thereto.

“**Threshold Test**” shall be met with respect to given category of Student Loans if the applicable Category Percentage (or average Principal Balance with respect to the Principal Balance category) falls within the Confidence Range for such category in the Proposed Pool.

“**Transaction Costs**” means all costs of the Conduit Lender paid by Program Funding Note Issuers in connection with the preparation and execution of any transaction documents relating to an investment by the Conduit Lender in securities issued by any Program Funding Note Issuer.

“**Transaction Documents**” means, collectively, this Agreement, [the Eligible Lender Trust Agreement,] all Servicing Agreements, [the Student Loan Purchase Agreement[s],] [the Seller Eligible Lender Trust Agreement[s],] all Guarantee Agreements, the Power[s] of Attorney, [the SPV Administration Agreement,] [the limited liability company agreement of the Funding Note Issuer,]<sup>77</sup> [the Subordinated Credit Facility,]<sup>78</sup> the Reserve and Portfolio Criteria Supplement and all other instruments, fee letters, documents and agreements executed in connection with any of the foregoing.

“**Transaction Party**” means each of the Funding Note Issuer, the Sponsor, [the SPV Administrator, [the] [each] Seller] and each Servicer.

“**Treasury Regulations**” means any regulations promulgated by the Internal Revenue Service interpreting the provisions of the Code.

“**Trust Accounts**” means the Funding Note Issuer Collection Account, the Excluded Borrower Benefit Account (if applicable), the Reserve Account, the DOE Reserve Account, the Breakage Account and the Sold Loans Account.

“**Trust Receipt**” means a receipt executed by the Conduit Administrator substantially in the form of Exhibit N.

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<sup>76</sup> Insert if a Subordinated Credit Facility is utilized in [the] [any] Student Loan Purchase Agreement for SPV Funding Note Issuers.

<sup>77</sup> Include for Funding Note Issuers that are SPVs.

<sup>78</sup> May be used for sales to the SPV structured as loans rather than contributions.

“**UCC**” means the Uniform Commercial Code as from time to time in effect in the specified jurisdiction.

“**United States**” means the United States of America, its territories and possessions.

“**Unsubsidized Stafford Loan**” means a student loan described in Section 428H of the Higher Education Act.

“**Upper Boundary**” means an amount equal to the sum of (i) the applicable Sample Mean plus (ii) the product of (A) 1.96 and (B) the applicable Standard Error.

“**Variable Put Fee**” means, the variable portion of the fee as further described in the Department Put Agreement payable by the Conduit Lender to the Department determined by reference to the Conduit Lender’s cost of funds.

“**Variance**” means, with respect to the Proposed Pool and a category of Student Loans, (a) with respect to average Principal Balance, (i) for each Student Loan in the Proposed Pool, calculate difference between the Principal Balance of such Student Loan and the Sample Mean, (ii) square such difference, (iii) sum all squared differences for the Proposed Pool and (iv) divided by the Sample Size minus one (1), and (b) with respect to all other categories, the applicable Category Percentage, multiplied by (ii) one (1) minus the applicable Category Percentage.

“**Yield Period**” means (i) initially the period commencing on the Closing Date and ending on (but excluding) the initial Determination Date, and (ii) thereafter, each period commencing on (and including) a Determination Date ending (but excluding) on the following Determination Date; provided that the Yield Period relating to the final Settlement Date shall end on the final Settlement Date. A Yield Period “relates” to the Settlement Date falling next after the end of such Yield Period.