

FIFTH SUPPLEMENTAL INDENTURE OF TRUST

THIS FIFTH SUPPLEMENTAL INDENTURE OF TRUST (this “*Fifth Supplemental Indenture*”), dated as of January 14, 2010, is between HIGHER EDUCATION FUNDING I, a Delaware statutory trust (the “*Issuer*”), and THE BANK OF NEW YORK MELLON (as successor to The Bank of New York) (“*BNYM*”), a banking corporation duly established, existing and authorized to accept and execute trusts of the character herein set out under and by virtue of the laws of the State of New York (the “*Trustee*”).

WITNESSETH:

WHEREAS, the Issuer, BNYM, as eligible lender trustee, and the Trustee, as indenture trustee, have previously executed and delivered an Indenture of Trust dated as of January 1, 2004 (the “*Initial Indenture*”); and

WHEREAS, the Issuer previously authorized and issued fifteen series of Senior Notes (collectively, the “*Series 2004-1 Senior Notes*”) and two series of Subordinate Notes (the “*Series 2004-1 Subordinate Notes*” and, together with the Series 2004-1 Senior Notes, the “*Series 2004-1 Notes*”) pursuant to the Initial Indenture, as amended and supplemented by a First Supplemental Indenture of Trust, dated as of January 1, 2004 (the “*First Supplemental Indenture*”), between the Issuer and the Trustee; and

WHEREAS, the Issuer, BNYM, as eligible lender trustee, and the Trustee, as indenture trustee, have previously executed and delivered an Amended and Restated Indenture of Trust dated as of March 1, 2005 (as amended, restated, supplemented and otherwise modified from time to time, the “*Base Indenture*”) to amend and restate the Initial Indenture (the Base Indenture together with the First Supplemental Indenture, the Second Supplemental Indenture (as defined below), the Third Supplemental Indenture (as defined below) and the Fourth Supplemental Indenture (as defined below) are referred to as the “*Indenture*”);

WHEREAS, the Issuer and the Trustee have previously executed and delivered a Second Supplemental Indenture of Trust, dated as of March 1, 2005 (the “*Second Supplemental Indenture*”); and

WHEREAS, the Issuer and the Trustee have previously executed and delivered a Third Supplemental Indenture of Trust, dated as of November 19, 2007 (the “*Third Supplemental Indenture*”); and

WHEREAS, the Issuer and the Trustee have previously executed and delivered a Fourth Supplemental Indenture of Trust, dated as of January 7, 2008 (the “*Fourth Supplemental Indenture*”); and

WHEREAS, pursuant to Section 8.01(l) of the Indenture, the Issuer and the Trustee may amend the Indenture without consent of, or notice to, any of the Holders or any Other Beneficiary to make any change to the Indenture which is not materially adverse to the Holders; and

WHEREAS, the execution and delivery of this Fifth Supplemental Indenture is not materially adverse to the Holders; and

WHEREAS, the execution and delivery of this Fifth Supplemental Indenture has been in all respects duly and validly authorized by the Issuer and the Trustee, and all acts and things necessary to constitute this Fifth Supplemental Indenture a valid supplemental indenture according to its terms have been done and performed;

NOW, THEREFORE, This Fifth Supplemental Indenture Witnesseth:

Section 1. Definitions. In the event that any term or provision contained in this Fifth Supplemental Indenture shall conflict with or be inconsistent with any provision contained in the Indenture, the terms and provisions of this Fifth Supplemental Indenture shall govern.

(a) All capitalized terms used but not otherwise defined herein shall have the respective meanings set forth in the Indenture.

Section 2. Amendments to the Provisions of the First Supplemental Indenture. The provisions of the First Supplemental Indenture are hereby amended as follows:

(a) The “Market Agent” definition appearing in Section 1(c) shall be amended and restated in its entirety to read:

“*Market Agent*” means Kildare Capital, Inc., or with respect to any series of Series 2004-1 Notes, any successor in such capacity hereunder.”

(b) The “Market Agent Agreement” definition appearing in Section 1(c) shall be amended and restated in its entirety to read:

“*Market Agent Agreement*” means the Market Agent Agreement, dated as of January 14, 2010, between the Market Agent and the Trustee, including any supplement thereto or amendment thereof.”

(c) Section 13 is amended by deleting the phrase “, have a capitalization of at least \$50,000,000” from such section.

Section 3. Certain Findings and Determinations. The Issuer hereby finds and determines that this Fifth Supplemental Indenture supplements the Indenture, constitutes and is a “Supplemental Indenture” within the meaning of such term as defined and used in the Indenture and is executed under and pursuant to the Indenture.

Section 4. Conditions Precedent. This Fifth Supplemental Indenture shall become effective upon:

(a) The receipt by the Issuer or its counsel of counterpart signature pages to this Fifth Supplemental Indenture, executed by the parties hereto; and

(b) The effectiveness of the removal of UBS Financial Services Inc., as Market Agent, pursuant to that certain Market Agent Termination Letter from the Issuer to the Trustee and UBS Financial Services Inc., dated as of January 14, 2010.

Section 5. Governing Law. THIS FIFTH SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTIONS 5-1401 AND 5-1402 OF THE GENERAL OBLIGATIONS LAW BUT OTHERWISE WITHOUT GIVING EFFECT TO THE CONFLICTS-OF-LAWS PRINCIPLES THEREOF).

Section 6. Headings. The headings or titles of the several sections hereof shall be solely for convenience of reference and shall not affect the meaning or construction, interpretation or effect of this Fifth Supplemental Indenture.

Section 7. Severability. If any provision of this Fifth Supplemental Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions of any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatsoever.

The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Fifth Supplemental Indenture contained shall not affect the remaining portions of this Fifth Supplemental Indenture or any part thereof.

Section 8. Counterparts. This Fifth Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9. Effect of Fifth Supplemental Indenture. Upon the execution and delivery of this Fifth Supplemental Indenture, the Indenture shall be supplemented in accordance herewith, and this Fifth Supplemental Indenture shall form a part of the Indenture for all purposes and every Holder of Notes and Other Beneficiary under the Indenture shall be bound hereby.

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IN WITNESS WHEREOF, the parties hereto have caused this Fifth Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

HIGHER EDUCATION FUNDING I

By: Wilmington Trust Company, not in its
individual capacity but solely as
Delaware Trustee

By: _____
Name:
Title:

THE BANK OF NEW YORK MELLON, as Trustee

By: _____
Name:
Title:

IN WITNESS WHEREOF, the parties hereto have caused this Fifth Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

HIGHER EDUCATION FUNDING I

By: Wilmington Trust Company, not in its individual capacity but solely as Delaware Trustee

By: 
Name: Jeanne M. Oller
Title: Assistant Vice President

THE BANK OF NEW YORK MELLON, as Trustee

By: _____
Name:
Title:

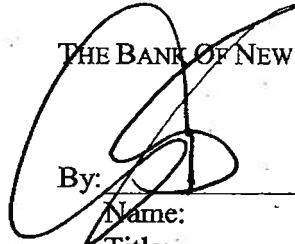
IN WITNESS WHEREOF, the parties hereto have caused this Fifth Supplemental Indenture to be duly executed, and their respective corporate seals to be hereunto affixed and attested, all as of the day and year first above written.

HIGHER EDUCATION FUNDING I

By: Wilmington Trust Company, not in its individual capacity but solely as Delaware Trustee

By: _____
Name:
Title:

THE BANK OF NEW YORK MELLON, as Trustee

By:  _____
Name:
Title:

CRAIG A. KAY
AS AGENT