**Promissory Note**

**PARTIES:**
The words “we,” “our,” and “us” mean Discover Bank. The words “Borrower,” “you,” and “your” refer to the Student and any Cosigner. The “Student” is the student whose education the loan is used to finance. The “Cosigner” is another person, other than the Student, who agrees to be bound by all of the terms and conditions of this Note. When the loan is made, both the Student and any Cosigner will be liable, individually and together, for the full amount of the loan, plus interest and other charges. The Borrower and the Cosigner agree to be bound by all of the terms and conditions of this Note, which we may have with either party and any modification we agree to with either party will bind both the Borrower and the Cosigner.

**A. PARTIES:**

**B. OTHER DEFINITIONS:**

“Principal” is the amount disbursed to you or on your behalf as disclosed on the Final Disclosure plus the amount of any interest that is capitalized at any time during the life of the loan made under this Note.

“Capitalization” and “Capitalize” is the addition of accrued and unpaid interest to the outstanding Principal balance of a loan made under this Note. After we Capitalize interest, interest will accrue on the Capitalized amount.

“Deferment Period” is the period of a loan made under this Note during which you may not be required to make any payments of Principal or interest, depending upon the repayment option you selected during the application process. If you do not select an In-School Period, the Deferment Period will begin the day after the loan proceeds are first disbursed and will end after the Grace Period. In certain circumstances, you may be eligible to extend your Deferment Period longer. If you have more than one loan with us, you consent and agree that we may, but are not required to, extend the Deferment Period for all of your loans. We will notify you of the length of the longest Deferment Period for any of your loans, but we are not required to extend a Grace Period on a loan that has already utilized its Grace Period. If you exercise the Multi-Year Option, the Grace Period may be applied separately to the original and each additional loan made under this Note. The Repayment Period will begin on the day after a Deferment Period ends.

“Final Disclosure” is a Truth-in-Lending Act document that we will provide to you as required by federal law prior to your first loan disbursement under the Multi-Year Option, and subsequently submit an application for and are approved for additional loan(s), you will be sent a new Final Disclosure(s) before the first disbursement for any additional loan(s).

“Grace Period” is a period of six months after you cease to be enrolled at least half-time for undergraduate loans, or nine months after you cease to be considered a School at least half-time for graduate loans.

“In-School Payment” is a repayment option, if offered to you and selected by you in the application for a loan made under this Note, by which you may repay the loan by making scheduled payments, which are payments of $25 per month, or 2) in the case of interest-only payments, a payment of the interest accrued each month.

For either option, beginning approximately 30 to 60 days after loan disbursement and continuing while in school, during your Grace Period, and during any subsequent in-school periods. Such In-School Payments may not cover all accrued interest or reduce the Principal, and any unpaid interest will be Capitalized when your Repayment Period begins.

“Multi-Year Option” is available to select qualified Borrowers and is available only to additional loan(s) under this Note. It is eligible for the Multi-Year Option, you will be notified during your application. To continue with the Multi-Year Option, you and the same Cosigner (if you have one) must apply for the additional loan(s) that will be added to your existing loan(s). We will notify you when you are attending at least half time, at the beginning of the initial term. Certain terms governing the additional loan(s) [including interest rate, repayment option and right to cancel period] will be provided in the Final Disclosure for your additional loan(s) and may be different from the terms governing the initial loan(s). If you are a Direct Loan Borrower and you are obligated to take additional loan(s) under this Note, we may decline your application for additional loan(s). The Multi-Year Option will expire if you do not apply for additional loan(s) within 18 months after submitting the most recent application under this Note or 5 years after your initial application is submitted. We may, at our sole discretion, discontinue the Multi-Year Option. If you are an eligible Borrower whose Multi-Year Option has not expired, then we will notify you of any discontinuance of the Multi-Year Option in advance.

“Note” is this Application and Promissory Note for a private education loan. If you are eligible for and elect to apply for additional loan(s) under the Multi-Year Option, Note also includes any additional application made under the Multi-Year Option.

“Repayment Period” is the period of a loan made under this Note during which you are required to make full payments of Principal and interest. The Repayment Period will be for 180 monthly payments for undergraduate loans or 240 monthly payments for graduate loans. The Repayment Period may be shortened or extended as described in this Note. If you have more than one loan with us we may send you a single statement with a single minimum payment amount that will fully amortize your loans over the adjusted Repayment Period. The length of the Repayment Period is subject to limitations on prepayment of applicable law.

“School” is an eligible institution where you identify on this Application and Promissory Note, which we approve, and which the Student attends or will attend.

**C. IDENTITY AND ENROLLMENT VERIFICATION:**

To help the government fight the funding of terrorism and money laundering activities, federal laws require all financial institutions to obtain, verify, and record information that will allow us to identify you. If you provide information that we are unable to verify, we will not be able to process your application.

**D. CONSUMER CREDIT REPORTS:**

We may request your consumer credit report from one or more consumer credit reporting agencies to evaluate your application and at any time before you repay your loan in full. If you ask, we will tell you if we requested a consumer credit report and give you the name, address, date of birth, Social Security number, and other information and documents that will allow us to identify you. If you did not provide a Social Security number during the application process, we will estimate your Social Security number if and when it is issued to you, and to respond to any request by us for the status of your Social Security number. It is your obligation to inform us of any future changes to your enrollment status including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status.

**E. PRIVACY:**

Every person has the right to know what information is collected about them, how it is used, and how it can be shared with others. In order for us to lend you money, we need to collect information about you and your borrowing and past payment history. We may use and disclose the information we collect, when we may share it with others, how we safeguard the information and documents that will allow us to identify you. If you did not provide a Social Security number during the application process, we will estimate your Social Security number if and when it is issued to you, and to respond to any request by us for the status of your Social Security number. It is your obligation to inform us of any future changes to your enrollment status including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status, including, but not limited to, change in your enrollment status.

**F. OUR COMMUNICATIONS WITH YOU:**

We agree that we, our Affiliates, and agents, including service providers (“Authorized Parties”) may contact you, including calls, text message or email, about any current or future accounts or applications, with respect to all products you have with us at any phone number or email (i) if we have provided to us, (ii) from which you contacted us, or (iii) which we obtained and believe we can reach you at, even if your phone provider may charge you message and data rates for calls or texts. You agree that the Authorized Parties may record or monitor any calls between you and the Authorized Parties. You may request to not notify us if you change or discontinue using any phone number you provide. You agree that the Authorized Parties may contact you using an automatic dialer or pre-recorded voice message. If you no longer wish to be contacted on your cell phone by an automated dialer or pre-recorded voice message, you must notify us in writing, by email, or by phone at this address: Discover Bank, PO Box 30937, Salt Lake City, UT 84130-0937.

The written notice must include: your name, mailing address, the last four digits of your Account number and the specific cell phone number(s) for which you would like to cancel your consent to be contacted by call or text at that phone number.

**G. HOW YOU AGREE TO THE TERMS OF THIS LOAN(S):**

With respect to each disbursement of loan proceeds, you agree to all the terms in this Note and the Final Disclosure(s) when you consummate the loan(s) by: 1) signing the Application and Promissory Note, including any applications for additional loan(s) in effect on that day, divided by the number of days in that calendar year. We may cancel disbursement in the event of your bankruptcy, your death or fraud in connection with your application.

**I. YOUR PROMISE TO PAY:**

You promise to pay us the Principal loan amount (including Capitalized interest), interest accrued on the Principal, and all other amounts that may become due under this Note. You promise to make each payment on or before the date that it is due. You promise to make the payments at the place or to mail the payments to the address that we specify. You must make payments on time; we do not send you a statement. On the date that the last installment of Principal becomes due under the terms of this Note, you promise to pay any other accrued and unpaid amounts in addition to the scheduled installment of Principal. Your responsibility to repay any amounts due under this Note is not affected by the liability of any other person to you. You agree to uphold your obligations in this Note, even if you do not complete your education program. If you are a Cosigner, your obligation to repay the loan is the same as that of the Student.

**J. INTEREST:**

You agree to pay interest on the Principal loan amount from the time we disburse the proceeds until the Principal balance is paid in full.

1) Interest Calculated Daily: We will calculate interest on a daily basis on the outstanding Principal balance until the loan balance is paid in full. The daily interest rate is equal to the annual interest rate divided by the number of days in that calendar year. Because we calculate interest daily, the amount of interest you pay will vary based on the number of days between your previous payment and your current payment.

2) Variable Rate: Your variable or fixed interest rate will be identified on the Final Disclosure(s) for your loan(s). If you are eligible and approved under the Multi-Year Option, you will receive a new Final Disclosure for each additional loan; the type and amount of interest may be different for your initial and additional loans. If you have a fixed interest rate, it will not change over the life of your loan unless you elected to make interest payments while in school and stop making payments. If you stop making your required interest payments prior to the Repayment Period, your interest rate will go up. (See Section C. Your Interest Rate.) Your interest rate may change. We will calculate the variable rate during the Deferment Period and the Repayment Period by taking the applicable variable index as described below, rounded up to the nearest one-eighth of one percent (0.125% or 0.00125), and by adding a margin to the index rate (which is a fixed amount identified on your Final Disclosure).

3) Variable Index: The applicable variable index is currently the 3-month London Interbank Offered Rate (LIBOR) Index, which is variable and may change quarterly on each January 1, April 1, July 1, and October 1 (the “interest rate change date”).
current variable rate is based on the variable 3-month LIBOR Index rate of interest published in the Money Rates section of The Wall Street Journal fifteen (15) days prior to the interest rate change date. In the event that more than one 3-month LIBOR Index rate is published, the rate will be the highest rate published. If the 3-month LIBOR is temporarily unavailable and not published fifteen days prior to the interest rate change date, then we will use the immediately preceding published 3-month LIBOR Index rate. If The Wall Street Journal is no longer published or stops publishing the 3-month LIBOR Index, we will choose another comparable source that publishes the variable index rate of interest and does not limit the variable index rate of interest to the Federal Funds rate or any other rate that is consistent with the former variable index rate described in this paragraph. Thereafter, the variable rate will change based on the variable index rate using the adjusted margin. The variable index, whether LIBOR or a comparable index, is a pricing index and does not include the margin. The variable interest rate is calculated by applying the adjusted margin to the variable index rate of interest. Interest will accrue but you are not required to make payments on the amount of interest that accrues. In those cases, we will Capitalize the unpaid interest and add it to the Principal balance of your loan at the end of the Repayment Period. In the event of default, any payments you make thereafter may be applied by us differently unless and until you send us a notice of your right to rescind or cancel the loan. We reserve the right to reduce availability or reliability, regardless of whether it is published, we will select a different index that is comparable to the 3-Month LIBOR to be the variable index and may adjust the margin so that the variable interest rate of interest remains, followed by your Repayment Period. We will make payments during a Deferment Period, unless you elected to enter any loan for which you agree to pay the costs of the suit and the costs of collection (including the costs of outside collection agencies and reasonable attorneys’ fees). Your agreement to pay these costs and fees is subject to the Servicemembers Civil Relief Act and other applicable laws.

P. NO RETURNED PAYMENT CHARGES: We will not assess any returned payment charges under this Note.

Q. DEFAULT – WHOLE LOAN DUE: If you are in default on a loan made under this Note, the entire outstanding balance on the loan will be due immediately at our option, except as prohibited by law. This will happen without any prior notice to you or right to cure, except where required by law. If you make a payment for or take other action to collect this loan, you agree to pay the costs of the suit and the costs of collection (including the costs of outside collection agencies and reasonable attorneys’ fees). Your agreement to pay these costs and fees is subject to the Servicemembers Civil Relief Act and other applicable laws.

R. DEFAULT – WHOLE LOAN DUE: If you are in default on a loan made under this Note, the entire outstanding balance on the loan will be due immediately at our option, except as prohibited by law. This will happen without any prior notice to you or right to cure, except where required by law. If you make a payment for or take other action to collect this loan, you agree to pay the costs of the suit and the costs of collection (including the costs of outside collection agencies and reasonable attorneys’ fees). Your agreement to pay these costs and fees is subject to the Servicemembers Civil Relief Act and other applicable laws.

S. DEATH AND DISABILITY – LOAN CANCELLATION: In the event of the Student’s death, any loans evidenced by this Note will be cancelled. The Student has the option to designate an eligible successor to receive the funds and act on the Student’s behalf with respect to loans made under this Note in the event of the death of the Student. The Student’s total and permanent disability (as reasonably determined by us), any loans evidenced by this Note may be eligible for cancellation in our sole discretion. Loan payments will end under these circumstances.

T. GENERAL WAIVER PROVISIONS: You have waived presentment for payment, demand, protest, notice of protest, dishonor, and all other notices or demands in connection with the delivery, acceptance, performance, default, or enforcement of this Note. We can accept late payments, partial payments, or checks and money orders marked “payment in full” or any other restrictive endorsement without losing any of our rights under this Note.

U. ASSIGNMENT: You may not assign or otherwise transfer your rights under this Note to anyone else. We may sell, transfer, or assign this Note, without notice to you, unless required by law, and your rights and obligations under this Note will continue unchanged.

V. DELAY IN ENFORCEMENT: We can delay enforcing any rights under this Note without losing any rights. Our failure to enforce any right under this Note will not act as a waiver of that right or preclude the exercise of that right or of any future occurrence of the same event. We may extend or defer the time allowed for making payments at your request, and such extension will not affect your obligations, whether or not you are given notice of the extension.

W. NOTICES AND ADDRESSES: 1) Government guidelines require us to maintain current information about you. You may request to update or confirm your information, and we will act as a waiver of that right or preclude the exercise of that right or of any future occurrence of the same event. We may extend or defer the time allowed for making payments at your request, and such extension will not affect your obligations, whether or not you are given notice of the extension.

X. ARBITRATION OF DISPUTES: 1) Agreement to Arbitrate. In the event of a dispute between you and us, you agree to resolve any dispute arising under this Agreement, or relating to your relationship with us, by binding arbitration. In the event of a dispute between you and us, you agree to resolve any dispute arising under this Agreement, or relating to your relationship with us, by binding arbitration.

Y. ARBITRATION OF DISPUTES: 1) Agreement to Arbitrate. In the event of a dispute between you and us, you agree to resolve any dispute arising under this Agreement, or relating to your relationship with us, by binding arbitration. In the event of a dispute between you and us, you agree to resolve any dispute arising under this Agreement, or relating to your relationship with us, by binding arbitration.

Z. ARBITRATION OF DISPUTES: 1) Agreement to Arbitrate. In the event of a dispute between you and us, you agree to resolve any dispute arising under this Agreement, or relating to your relationship with us, by binding arbitration. In the event of a dispute between you and us, you agree to resolve any dispute arising under this Agreement, or relating to your relationship with us, by binding arbitration.
CLASS ACTION WAIVER. ARBITRATION MUST BE AN INDIVIDUAL BASIS. THIS MEANS NEITHER YOU NOR WE MAY JOIN OR CONSOLIDATE CLAIMS IN ARBITRATION BY OR AGAINST OTHER BORROWERS, OR LITIGATE IN COURT, OR ARBITRATE ANY DISPUTE AS PART OF A CLASS OR IN A PRIVATE ATTORNEY GENERAL CAPACITY.

The arbitrator may award injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual Claim. The arbitrator may not award class, representative, or injunctive relief. If a court decides that applicable law precludes enforcement of any of this paragraph's limitations as to a particular Claim for relief, then after all appeals from that decision have been exhausted, that Claim (and only that Claim) must be severed from the arbitration and may be brought in court. Only a court, and not an arbitrator, shall determine the validity, scope, and effect of the Class Action Waiver.

2) Your Right to Go to Small Claims Court. We will not choose to arbitrate any individual Claim you bring in small claims court or in a state or local court. However, if such a Claim is transferred, removed, or appealed to a different court, we may then choose to arbitrate.

3) Governing Law and Rules. This arbitration agreement is governed by the Federal Arbitration Act (“FAA”). Arbitration must proceed substantially in accordance with the American Arbitration Association (“AAA”) rules. The rules for the arbitration will be those in this arbitration agreement and the procedures of the AAA, but the rules in this arbitration agreement will be followed if there is disagreement between the arbitration agreement and the AAA’s procedures. If the AAA’s procedures change after a Claim is filed, the procedures in effect when the Claim is filed will apply.

For a copy of the AAA's procedures, to file a Claim, or for other information, please contact the AAA at 1-800-747-3877 or 1-877-AAA-0011. The AAA’s rules and fees are available online at http://www.adr.org/.

If the AAA is completely unavailable, and if you and we cannot resolve the dispute by phone, you can bring, or we can bring, a written notice of rejection within 30 days after consummation of the consumer credit transaction. Rejection of arbitration for this Loan will not constitute rejection of any prior or future arbitration agreement between you and us.

Y. GOVERNING LAW:
This Note and any Claim or dispute arising out of this Note will be governed by applicable United States federal law and, to the extent state law applies, Delaware law, without regard to its conflict of law rules. All other laws, including the privacy and other laws of other countries and international bodies, are inapplicable.

Z. STATE LAW NOTICES:
1) California Residents: A married applicant may apply for separate credit, which is the same as the separate credit feature of an individual loan. A negative credit report reflecting any credit history that may be submitted to a credit reporting agency if you fail to fulfill the terms of this Note.

2) Indiana and Maine Residents: The provisions of this Note regarding the payment of collection agency costs and court costs do not apply to Indiana or Maine residents.

3) Iowa and Kansas Residents: NOTICE TO CONSUMER: a) Do not sign this agreement before you read it; b) You are entitled to a copy of this agreement; c) You may prepay the unpaid balance at any time without penalty and may be entitled to receive a refund of unearned finance charges.

4) Maryland Residents: We elect Subtitle 10, Credit Grantor Closed-End Credit Provision to Title 12 of the Commercial Law Article of the Annotated Code of Maryland, to govern this Note, only to the extent inconsistent with 12 U.S.C. § 1831d and related regulations and opinions.

5) Missouri Residents: Oral agreements or commitments to loan money, extend credit, or to forbear from enforcing repayment of a debt, including promises to extend or renew such debts, are not enforceable. To protect you (borrower[]s) and us (creditor) from mistakes and misunderstandings, all agreements we reach covering such matters are contained in this writing, which is the complete and exclusive statement of the agreement between us, except as we may later modify it in writing.

6) New Jersey Residents: To the extent permitted by law, this Note to an attorney for collection, you agree to pay our reasonable attorneys’ fees, costs or expenses. If you, however, you prevail in any action, suit, or proceeding we bring, or any action brought by you in connection with this Note, or if you successfully assert a partial defense or setoff, recoupment, or counterclaim to an action brought by us, the court may withhold from us the entire amount or such portion of the attorneys’ fees as the court considers equitable.

7) New Jersey Residents: This Note applies to residents of multiple states, and certain provisions may be void, unenforceable or inapplicable to residents in states other than New Jersey. None of these provisions are void, unenforceable or inapplicable to New Jersey residents, except that, if you reside in New Jersey, any collection fees imposed upon default are limited to 20% of the principal balance and interest outstanding. Please let us know how you would like us to apply a payment that is in excess of the monthly amount due on your[s].

8) New York, Rhode Island, and Vermont Residents: A consumer credit report may be ordered on you in connection with your application for credit. If you ask, we will tell you whether or not more than once a year for any one purpose, and whether the consumer credit reporting agency that provided it. Subsequent consumer credit reports may be requested or used in connection with an update, renewal, or extension, of the credit applied for with the same purpose.

9) Ohio Residents: The Ohio laws against discrimination require that all creditors make credit equally available to all credit-worthy customers and that consumer credit reporting agencies maintain separate credit histories on each individual upon request. The Ohio Civil Rights Commission administers compliance with this law.

10) Texas Residents: You give up (waive) your common law rights to receive notice of intent to accelerate and notice of acceleration. This means that you give up the right to receive notice that we intend to demand that you pay all that you owe on this contract at once (accelerate) and notice that we have accelerated. This written loan agreement represents the final agreement between the parties and may be used in any legal proceeding, or in court, or in subcommittee, or in subsequent oral agreements between the parties.

11) West Virginia Residents: Any provision in this Note authorizing the collection of attorneys’ fees, costs or expenses; the right to bring, or an action brought by you in connection with this Note, the breach of which materially impairs your ability to pay the amounts due under this Note.

AA. CORRECTION OF ERRORS:
Any bankruptcy by you or any other correspondence. Rejection of arbitration will not affect your other rights or responsibilities under this Loan Agreement. If you reject arbitration, neither you nor we will be subject to the arbitration process. Rejection of arbitration for this Loan will not constitute rejection of any prior or future arbitration agreement between you and us.

Survival of this Arbitration Agreement.

The relationship between you and us is and will be that of debtor and creditor. Notwithstanding provisions to the contrary in Section R (DEFAULT – WHOLE LOAN DUE) of this Note, you will be in default hereunder only: a) if the interval between scheduled payments is 2 months or less, and you permit to be outstanding an amount exceeding 1% of the remaining unpaid principal balance due on your Loan(s).

AAA. CORRECTION OF ERRORS:
If any provisions of this Note are not inapplicable to New Jersey. None of these provisions are void, unenforceable or inapplicable to New Jersey. None of these provisions are void, unenforceable or inapplicable to New Jersey, except that, if you reside in New Jersey, any collection fees imposed upon default are limited to 20% of the principal balance and interest outstanding. Please let us know how you would like us to apply a payment that is in excess of the monthly amount due on your[s].

BB. EFFECT OF PARTIAL INVALIDITY:
If any provisions of this Note are rendered invalid or unenforceable, those provisions shall be considered omitted from this Note without affecting the validity or enforceability of the remaining provisions of this Note.

CC. OTHER IMPORTANT TERMS:
1) Signatures: This Note will be effective and enforceable when you affix your signature to the Application and Promissory Note (or the Cosigner Addendum, as the case may be) and deliver it to us. A facsimile, electronic, or scanned copy of your signature that is signed or initialed on any document will be binding and treated as your original.

2) Rewards and Other Options: From time to time we may offer additional benefits to you in connection with this Loan, or as a Borrower. In the event you are eligible and are accepted by us to participate in any such program, you agree to abide by applicable terms and conditions as may be published by us, including any amendments to those terms and conditions.

3) Nonnegotiable: This is a non-negotiable consumer credit agreement.

Certification: In addition to any certification you make in the application, you certify that all of the loan proceeds evidenced by this Note will be used solely to pay for Qualified Higher Education Expenses. Qualified Higher Education Expenses are the costs of attending an eligible education institution, including graduate school, on at least a half-time basis. Generally, these costs include tuition and certain related expenses. See Internal Revenue Service (IRS) Publication 970 and related guidance for more information. The IRS does not require your consent to any provision of this application and Promissory Note other than this certification. Signing the Application and Promissory Note will be your consent for IRS purposes.