

## **LOANS PURCHASE PROGRAMS ELECTRONIC ANNOUNCEMENT #85**

Date: May 5, 2010

To: FFEL Program Community

From: James W. Runcie, Deputy Chief Operating Officer  
Federal Student Aid

Subject: Third Amended and Restated Put Agreement

In Electronic Announcement # 73, we posted the Second Amended and Restated Put Agreement between the U.S. Department of Education and The Bank of New York Mellon as Conduit Administrator and Eligible Lender Trustee and Straight-A Funding, LLC dated July 31, 2009, including Exhibits. The Put Agreement was amended on April 26, 2010. This announcement supersedes Electronic Announcement #73. Attached to this Electronic Announcement is the Executed Third Amended and Restated Put Agreement.

Thank you for your continued support of these FFEL Loan Purchase Programs.

**THIRD AMENDED AND RESTATED PUT AGREEMENT**

**UNITED STATES DEPARTMENT OF EDUCATION,**

**STRAIGHT-A FUNDING, LLC**

**AS CONDUIT**

**AND**

**THE BANK OF NEW YORK MELLON,**

**AS CONDUIT ADMINISTRATOR AND ELIGIBLE LENDER TRUSTEE**

**APRIL 26, 2010**

**STRAIGHT-A FUNDING, LLC CONDUIT PROGRAM**

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## **EXHIBITS**

EXHIBIT A	-	INTENTIONALLY LEFT BLANK
EXHIBIT B	-	FORM OF PUT NOTICE
EXHIBIT C	-	FORM OF BILL OF SALE
EXHIBIT D	-	FORM OF NOTICE OF INTENT TO PARTICIPATE

### **THIRD AMENDED AND RESTATED PUT AGREEMENT**

This is a Third Amended and Restated Put Agreement, dated April 26, 2010 (this “Agreement”), among the United States Department of Education (the “Department”), Straight-A Funding, LLC (the “Conduit”) and The Bank of New York Mellon, acting (i) as agent on behalf of the Conduit in its capacity as conduit administrator (the “Conduit Administrator”) and as Eligible Lender Trustee and (ii) as agent for each Funding Note Issuer (as defined below) for the sole purposes of accepting the Put Option (as defined below).

WHEREAS, the parties hereto are parties to that certain Second Amended and Restated Put Agreement dated as of July 31, 2009 (the “Original Amended and Restated Put Agreement”);

WHEREAS, the parties hereto wish to amend and restate the Original Amended and Restated Put Agreement pursuant to this Agreement such that the Original Amended and Restated Put Agreement continues in full force and effect as amended hereby and all obligations of the parties as amended hereby to the Original Amended and Restated Put Agreement will remain outstanding and continue in full force and effect, unpaid, unimpaired and undischarged;

WHEREAS, pursuant to Section 459A of the Higher Education Act of 1965, as amended, the Department has the authority to purchase, or enter into forward commitments to purchase, Stafford Loans and PLUS Loans (each, as defined below), on such terms as the Secretary of Education, the Secretary of the Treasury, and the Director of the Office of Management and Budget jointly determine are in the best interest of the United States to encourage Eligible Lenders (as defined below) to provide students and parents access to Stafford Loans and PLUS Loans made under the Federal Family Education Loan Program (“FFELP”) authorized under title IV, Part B of the Higher Education Act (as defined below);

WHEREAS, pursuant to the terms and provisions of certain student loan purchase agreements in the form approved by the Department (each, a “Student Loan Purchase Agreement”), from time to time, certain Eligible Lenders or holders of beneficial interests in Loans, and if the latter, the related Eligible Lender Trustee (as defined below), may sell and transfer to individual bankruptcy remote special purpose vehicles, as “funding note issuers” thereunder, their right, title and interest in Eligible Loans (as defined below) for a purchase price consisting of cash and certain subordinated interests in such special purpose vehicle;

WHEREAS, pursuant to the terms and provisions of certain note and security purchase agreements in the form approved by the Department (each, a “Funding Note Purchase Agreement”), from time to time, the Funding Note Issuers may issue to the Conduit, variable funding notes (“Funding Notes”) secured by a first priority security interest in Loans owned by such Funding Note Issuer;

WHEREAS, pursuant to the terms and provisions of the applicable Transaction Documents (as defined below) from time to time, the Conduit may issue commercial paper (“Commercial Paper”) and other securities (“Additional Securities” and, together with Commercial Paper, “Securities”);

WHEREAS, pursuant to the terms and provisions of any liquidity agreement (each, a “Liquidity Agreement”), by and between the Conduit and certain liquidity providers (each, a “Liquidity Provider” and collectively, the “Liquidity Providers”), the Liquidity Providers will agree, in the event that the Conduit is unable to meet its obligations to pay amounts owed on the Commercial Paper on the applicable maturity date thereof, to advance funds (“Liquidity Fundings”) to the Conduit; and

WHEREAS, in order to encourage or enable Eligible Lenders to participate in FFELP, the Department is willing to provide its commitment to purchase Putable Loans (as defined below) from the Conduit and the Conduit Administrator, as Eligible Lender Trustee for the Conduit and as agent for the Funding Note Issuers, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in connection with the mutual promises contained herein, the parties hereto agree as follows:

Section 1.     Terms.

A.     Grant of Put Option. Subject to the terms and conditions of this Agreement, the Department hereby grants to the Conduit and the Conduit Administrator, as Eligible Lender Trustee for the Conduit and as agent for the Funding Note Issuers, an option (“Put Option”) to require the Department to purchase, from time to time on any Business Day prior to the Put Expiration Date, at a price equal to the Put Price, the Putable Loans specified on the Final Loan Schedule (as defined below) attached to each Bill of Sale (as defined below) securing the Funding Notes as of the occurrence of a Put Event (as defined below). This Agreement establishes the terms under which the Conduit and the Conduit Administrator shall sell, and the Department shall purchase, Putable Loans specified on the Final Loan Schedule attached to each Bill of Sale (each, as defined below). Each Bill of Sale shall be substantially in the form of Exhibit C attached hereto, incorporating by reference the terms of this Agreement, and shall be a separate agreement among the Conduit and the Conduit Administrator, and the Department with respect to the Loans covered by the terms of such Bill of Sale for all purposes.

B.     Put Expiration Date. On the Put Expiration Date (as defined below), the Put Option will expire and the Department shall not thereafter be obligated to purchase Putable Loans from the Conduit and the Conduit Administrator under this Agreement.

C.     Put Fee. In consideration of the grant of the Put Option, the Department shall be entitled to receive the Put Fee on each Put Fee Payment Date, and the Conduit hereby agrees to pay the Put Fee on each Put Fee Payment Date from funds available for such payment in accordance with the Transaction Documents. For the avoidance of doubt, the failure of the Conduit to pay the Put Fee on any Put Fee Payment Date shall not excuse or relieve the Department from its obligation to purchase Putable Loans pursuant to the Put Option.

Section 2.     Commitment to Lend Under the FFELP.

(a)     By its execution of a Purchase Agreement, and upon each sale or pledge thereunder, the applicable Seller shall represent to the Department that:

(i) during a twenty four (24) month period commencing with the month in which it sells or pledges Loans pursuant to a Purchase Agreement, it will originate and disburse Stafford Loans or PLUS Loans, or will acquire Stafford Loans or PLUS Loans made by other lenders within the same twenty-four (24) month period, and that the combined amount of such originated and acquired Loans (other than Excluded Loans) shall equal the Commitment Amount for such month;

(ii) if the Seller participates solely as a secondary market purchaser and does not originate and disburse Stafford Loans or PLUS Loans in its own right but rather acquires Stafford Loans and PLUS Loans from others, that it will, during the term of the Conduit program, acquire Stafford Loans or PLUS Loans first disbursed on or after July 1, 2009 and that have experienced a final disbursement on or before September 30, 2011;

(iii) within the twelve (12) months following the month in which it sells and/or pledges Loans pursuant to a Purchase Agreement, it will conduct activities constituting a continued participation in FFELP, including but not limited to servicing a pre-existing FFELP loan portfolio, purchasing additional FFELP loans, or maintaining a platform from which the Seller may originate FFELP loans; and

(iv) not later than twenty-seven (27) months following the month in which it first sells and/or pledges Loans pursuant to a Purchase Agreement (and every six months thereafter until each Commitment Amount has been satisfied, each a “Commitment Reporting Date”), it will provide a report to the Department and the Conduit Administrator certifying that it has originated and/or acquired FFELP loans in an amount equal to or exceeding the Commitment Amounts required to be satisfied prior to such Commitment Reporting Date;

provided, that, the applicable Seller may satisfy the commitment set forth in this Section 2 by arranging to have another Eligible Lender assume such commitment, in whole or in part, as evidenced by a commitment letter, in form satisfactory to the Department, between such Eligible Lender and the Department, with a copy to the Conduit Administrator.

(b) For the purposes of confirming compliance with the Seller’s commitment above, the Seller must, on an annual basis, provide a report to the Department setting forth the activities conducted by the Seller with the Net Cash Proceeds received through the sale of Loans or issuance of Funding Notes under the applicable Purchase Agreement, the dollar value and number of loans originated and/or acquired, and detailing any other uses of Net Cash Proceeds received through the sale of Loans or issuance of Funding Notes under the applicable Purchase Agreement and the amounts expended on such “other uses”.

In addition, in connection with the Seller’s commitment above, on the last Business Day of each calendar month, commencing in the first month in which a Seller sells or pledges a Loan pursuant to a Purchase Agreement and ending in July 2010, the Conduit Administrator shall provide, or cause to be provided, to the Department a notice setting forth the amount of Net Cash Proceeds received by each Seller that is party to a Purchase Agreement during such month.

For the avoidance of doubt, the failure of any Seller to comply with its obligations under this Section 2 shall not excuse or relieve the Department from its obligation to purchase Putable Loans pursuant to the Put Option.

Section 3. Definitions. For purposes of this Agreement, the following capitalized terms shall have the respective meanings set forth below:

“Accrual Period” means, with respect to the Put Fee and any Put Fee Payment Date, the period commencing on and including the Put Fee Payment Date preceding such Put Fee Payment Date (or, in the case of the initial Accrual Period, January 19, 2009) and ending on and including the day preceding such Put Fee Payment Date.

“Additional Securities” shall have the meaning set forth in the recitals hereof.

“Administration Agreement” means the Administration Agreement among the Conduit and the Conduit Administrator.

“Applicable UCC” means the Uniform Commercial Code, as amended from time to time, as in effect in the applicable jurisdiction.

“Auction” means a foreclosure auction of Pledged Loans by the Conduit or its agent conducted in accordance with the applicable Funding Note Purchase Agreement and the Applicable UCC.

“Authorized Re-Issuance” means a re-issuance of a disbursement on a Loan within 120 days of such Loan’s final disbursement date by the related Seller 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 related Borrower.

“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.

“Bill of Sale” means each document in the form of Exhibit C attached hereto, executed by an authorized officer of the Conduit and the Conduit Administrator, which shall (i) set forth the Putable Loans sold by the Conduit 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 and the applicable Funding Note Issuers in the Putable Loans listed on such Bill of Sale and the related Final Loan Schedule; and (iii) sell, assign and convey all rights of the Conduit and the Conduit Administrator under the related Purchase Agreements with respect to the Putable Loans sold thereunder.

“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 this Agreement, which notice shall be provided to the Conduit Administrator not less than 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 Loan.



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

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

“Cash Proceeds” shall have the meaning set forth in the definition of Net Cash Proceeds herein.

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

“Collection Account” means, with respect to each Funding Note Issuer, the “Collection Account” as defined in each Funding Note Purchase Agreement.

“Commercial Paper” shall have the meaning set forth in the recitals hereof.

“Commitment Amount” means, with respect to a Seller and all sales and/or pledges of Loans to the Conduit program during a calendar month, an amount equal to the product of (a) the Net Cash Proceeds received by such Seller in such month, multiplied by (b) the applicable Market Adjustment.

“Commitment Reporting Date” shall have the meaning set forth in Section 2.

“Conduit” shall have the meaning set forth in the recitals hereof.

“Conduit Administrator” shall have the meaning set forth in the recitals hereof.

“Conduit Cost of Funds Rate” means a rate equal to the per annum rate equivalent to the daily average for the related Accrual Period of the weighted average daily discount on the Commercial Paper, plus, with the Department’s prior approval, similar amounts with respect to Additional Securities; together with any fees and commissions owed to dealers of Commercial Paper; provided, that, in calculating the “Conduit Cost of Funds Rate” such discount rate and fees and commissions shall be converted to an interest bearing equivalent rate per annum.

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

“Conversion File” means the schedule (in the form provided by the Department from time to time) delivered to the Department pursuant to Section 4A hereof, and caused to be completed by the Conduit Administrator, containing loan level details with respect to the Puttable Loans proposed to be sold to the Department on the related Put Date.

“Daily Put Limit” shall have the meaning set forth in Section 4F.(ii).

“Deemed Liabilities” means, with respect to a Seller and Loans not pledged to secure indebtedness of the Seller, an amount equal to the product of (a) the Cash Proceeds for such

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 Seller (or the Seller's ultimate parent to the extent financial statements are not available for the Seller).

"Delinquency Put Date" means, with respect to a Delinquency Put Event, the third Business Day of the Specified Week that includes the date 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 Pledged Loan, such Loan shall have become 210 days delinquent.

"Delivery Requirements" shall have the meaning set forth in Section 29.

"Department" shall have the meaning set forth in the preamble hereof and includes any official of the Department duly authorized to perform any function with respect to the transactions under this Agreement or the other Transaction Documents.

"Effective Date" means any date prior to the date hereof on which the parties hereto executed a prior version of this Agreement.

"Eligible Borrower Benefits" means only those borrower benefits for a Loan that are (i) unconditional upfront fee reductions which are accrued and paid or made prior to the date on which such Loan is sold and/or pledged pursuant to a Purchase Agreement, or (ii) permitted reductions in interest rates of not more than 0.25 percent that are contingent on the use of an automatic payment process by the related Borrower for any payments due.

"Eligible Direct Issuer" means any state agency or non-for-profit organization that is either (i) not eligible to be a "debtor" under Chapter 9 of the Bankruptcy Code or (ii) not eligible to be subject to an involuntary bankruptcy petition under Section 303 of the Bankruptcy Code.

"Eligible Lender" means an entity that is an eligible lender under Section 435(d) of the Higher Education Act that holds Loans (whether directly or as an Eligible Lender Trustee).

"Eligible Lender Trustee" means (i) an Eligible Lender that holds legal title to a Loan for the benefit or on behalf of an entity which holds the related beneficial ownership interest in such Loan that is authorized to sell Loans on behalf of such entity or (ii) in respect of Straight-A Funding, LLC, the Conduit Administrator acting in its capacity as "eligible lender trustee" under an eligible lender trust agreement between the Conduit and the Conduit Administrator.

"Eligible Loan" means a Loan that meets the following criteria as of the applicable Grant Date:

- (i) the Loan is a Putable Loan and satisfies the representations and warranties set forth in Section 8B of this Agreement as of the applicable Grant Date;

- (ii) the Loan is fully disbursed;
- (iii) the 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 Loan;
- (iv) the 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;
- (v) the Loan bears interest at a stated rate equal to the maximum rate permitted under the Higher Education Act for such 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);
- (vi) the Loan is eligible for the payment of quarterly Special Allowance Payments;
- (vii) if the Loan is not yet in repayment status, the 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 Seller would not otherwise have billed the Borrower quarterly for interest accrued on the related Loan);
- (viii) the 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 Loan or the exercise by a transferee of the rights of the Eligible Lender under terms of the note, except as such an agreement relates exclusively to Eligible Borrower Benefits on the Loan;
- (ix) the 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 Loan;
- (x) the 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;
- (xi) the Loan is supported by the Loan Documents required under this Agreement;

- (xii) if the Loan is subject to a servicing agreement, such servicing agreement shall automatically terminate with respect to such Loan upon the relevant Put Date for such Loan, unless the Department otherwise notifies the related Servicer as soon as reasonably practicable but not less than five (5) Business Days prior to the Put Date, without the payment by the Department of any de-boarding, deconversion or related fees or expenses of the related servicer and without any liability on the part of the Department;
- (xiii) the sale, pledge or assignment of the 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 consents, approvals, 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;
- (xiv) if the 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 (other than any such Loans that are Restricted Loans as defined in clause (ii) of the definition thereof) are being sold to the related Funding Note Issuer (if applicable) and will become Pledged Loans on the applicable Grant Date;
- (xv) the 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 Loan is held by an Eligible Lender Trustee, and the Department has timely received the applicable Notice of Intent to Participate; and
- (xvi) the Loan was selected in accordance with the loan allocation criteria set forth in Section 4E.

FFELP consolidation loans or any other types of loans not specifically described above will not be considered "Eligible Loans"; provided, however, that, any proceeds received from a consolidation of a Loan subsequent to its sale or pledge pursuant to a Purchase Agreement shall be used to decrease the Principal Balance of such Loan to zero.

"Eligible Servicing Agreement" means, with respect to any Pledged Loan, an agreement pursuant to which the related Servicer is servicing such Loan, that (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 related Servicer that the Department and the Conduit are the intended third-party beneficiaries thereof and entitles the Department, upon the purchase of such Loan by the Department hereunder, to instruct such Servicer and exercise remedies with respect to such Loan serviced thereunder; and (iii) provides that, upon the occurrence of a Put Event with respect to such Loan, such agreement shall automatically terminate with respect to such Loan upon the purchase thereof by the

Department, unless the Department otherwise notifies such Servicer as soon as reasonably practicable but not less than five (5) Business Days prior to the Put Date, without any payment by the Department of any de-boarding, deconversion or related costs, penalties or fees to the related Servicer and that the servicing shall be transferred as instructed by the Department.

“Eligible Sub-custodian” means any sub-custodian retained by the Conduit Administrator in connection with the obligations of the Conduit Administrator as custodian under the Transaction Documents that satisfies the requirements set forth under the Transaction Documents.

“Excluded Borrower Benefit Account” shall have the meaning set forth in Section 5B.(v).

“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 Grant Date, which obligation shall be satisfied prior to the sale of the applicable Loan to the Department.

“Excluded Loan” means any Loan (a) sold or pledged pursuant to a Purchase 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.

“FFELP” shall have the meaning set forth in the recitals hereof.

“Final Loan Schedule” means the schedule attached to each Bill of Sale (in the form provided by the Department from time to time) and completed by or caused to be completed by the Conduit Administrator that lists, by Borrower, (i) the Loans sold to the Department pursuant to such Bill of Sale, (ii) the name of such Borrower, the loan number and the estimated Principal Balance and accrued interest of such Loans as of the related Put Date, (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 Puttable Loans.

“Fixed Put Fee” means, with respect to each Put Fee Payment Date and the related Accrual Period, a per annum rate on the average daily balance of the outstanding principal balance of the Funding Notes outstanding as of each day of such Accrual Period equal to (A) with respect to each Put Fee Payment Date during the 2009 and 2010 calendar years, 0.05%, (B) with respect to each Put Fee Payment Date during the 2011 calendar year, 0.15% and (C) with respect to each Put Fee Payment Date during the 2012 and 2013 calendar years and thereafter, 0.25%.

“Funding Note Issuer” means each Person that enters into a Funding Note Purchase Agreement as “Funding Note Issuer” thereunder.

“Funding Note Purchase Agreement” shall have the meaning set forth in the recitals hereof.

“Funding Notes” shall have the meaning set forth in the recitals hereof.

“Grant Date” means, with respect to any Loan, the date on which such Loan is sold by the Seller to the related Funding Note Issuer, if applicable, and pledged by the Funding Note Issuer or Eligible Direct Issuer to the Conduit pursuant to the Funding Note Purchase Agreement.

“Guarantee Agreement” means an agreement between a Guarantor and the Seller or the Eligible Lender Trustee (if applicable) 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 Seller or the Eligible Lender Trustee (if applicable) 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, as amended, 20 U.S.C. Section 1001 et seq.

“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.

“Issuing and Paying Agent” means the issuing and paying agent for the Conduit Commercial Paper.

“LIBOR” shall have the meaning set forth in the Transaction Documents.

“Liquidity Agreement” shall have the meaning set forth in the recitals hereof.

“Liquidity Funding” shall have the meaning set forth in the recitals hereof.

“Liquidity Provider” shall have the meaning set forth in the recitals hereof.

“Loan” means a Stafford Loan or 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.

“Loan Data Schedule” means the schedule completed by a Seller and delivered to the Department (in the form provided by the Department) that lists, by academic year, with respect to such Seller’s Relevant Loan Portfolio, (i) the average Principal Balance of such Loans, (ii) the type of school with respect to which such 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 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 Loans expressed as a percentage of such Relevant Loan Portfolio (i.e. Subsidized Stafford Loan, PLUS Loan or Unsubsidized Stafford Loan).

“Loan Detail File” means the schedule completed or caused to be completed by the Department that lists, with respect to each loan expected to be sold to the Department under the related Bill of Sale, by Borrower, (i) the Loans to be sold to the Department pursuant to such Bill of Sale, (ii) the name of such Borrower, the loan number and the estimated Principal Balance and accrued interest of such Loans as of the related Put Date, (iii) the applicable Seller and (iv) certain additional information including but not limited to identification numbers and dates relating to the related Putable Loans.

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

- (i) a copy of the loan application if a separate application was provided to the Seller;
- (ii) a copy of the signed Promissory Note;
- (iii) the repayment schedule;
- (iv) a record of each disbursement;
- (v) notices of changes in a Borrower’s address and status as at least a half-time student;
- (vi) if applicable, evidence of the Borrower’s eligibility for any current period of deferment;
- (vii) if applicable, the documents required for any current exercise of forbearance;
- (viii) documentation of the assignment of the Loan, if any;
- (ix) 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;
- (x) a collection history showing the date and subject of each communication between the Seller and the Borrower or endorser relating to collection of a delinquent Loan, each communication other than regular reports by the Seller showing that an account is current, between the 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 Seller for default aversion assistance on the Loan;
- (xi) documentation of any master promissory note confirmation process or processes;

- (xii) any additional records that are necessary to document the validity of a claim against the guarantee or the accuracy of reports submitted by the Seller; and
- (xiii) 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.

“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 loans held by Eligible Lenders, acting as sponsors, that have elected to participate in such program pursuant to a master participation agreement.

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

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

“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.

“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 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 sale and/or pledge of Loans to the Conduit program and ending at the end of the twenty-fourth month after such sale and/or pledge (or at the end of the preceding month if less than twenty-four months have elapsed since such sale and/or pledge), and (ii) the denominator of which is the aggregate original principal balance of all 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 sale and/or pledge of Loans to the Conduit program.



“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 Proceeds” means an amount equal to (a) the cash proceeds received by a Seller from the sale and/or pledge of Loans to the Conduit program (including cash proceeds received from the sale and/or 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 Seller in connection with such sale and/or pledge of the Loans to repay indebtedness secured by the Loans or, with respect to any Loans that are not pledged to secure indebtedness of the Seller, the Deemed Liabilities allocated to such Loans.

“Notice of Intent to Participate” means the notice provided to the Department by a Seller of its intent to enter into a Purchase Agreement, which shall be in the form attached hereto as Exhibit D.

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

“Pledged Loan” means a Loan pledged by a Funding Note Issuer or Eligible Direct Issuer to secure a Funding Note.

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

“Principal Balance” means, with respect to any Loan and date of determination, the outstanding principal amount of such Loan plus interest capitalized through such date of determination.

“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 Loans from a single academic year proposed to be sold and/or pledged or released pursuant to Section 4E.

“Purchase Agreement” means (i) with respect to an Eligible Direct Issuer, the related Funding Note Purchase Agreement and (ii) with respect to any other Funding Note Issuer, the related Student Loan Purchase Agreement and the related Funding Note Purchase Agreement, as applicable.

“Putable Loan” means any Loan (i) sold and/or pledged by a Seller pursuant to a Purchase Agreement prior to the earlier of July 1, 2010 and the declaration of an “event of default” (as defined in the applicable Purchase Agreement); (ii) that 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 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 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 and the Conduit Administrator sells and the Department purchases Putable Loans in accordance with this Agreement. The latest Put Date hereunder shall be the Put Expiration Date.

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

- (i) any failure to make a Liquidity Funding when due; provided, that, a Put Event shall not be deemed to occur under this clause (i) if the related Liquidity Funding shall have been made by any other Person; or
- (ii) any Liquidity Funding which remains unpaid for more than forty-five (45) days after the date on which such Liquidity Funding was made in accordance with any Liquidity Agreement; or
- (iii) the date (or, if such date is not a Business Day, the immediately preceding Business Day) that is 45 days prior to the Put Expiration Date; provided, that a Put Event shall occur on each date preceding such forty-fifth day to the extent necessary in order to ensure that the Daily Put Limit is not exceeded on any related Put Date; or
- (iv) the declaration or automatic occurrence of a Funding Note “event of default” (as defined in any Funding Note Purchase Agreement), including, without, limitation, an event of default relating to a Seller’s breach of its Commitment to Lend under FFELP obligations described under Section 2; 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 45 days prior to the maturity date of any Additional Securities; provided, that a Put Event shall occur on each date preceding such forty-fifth day to the extent necessary in order to ensure that the Daily Put Limit is not exceeded on any related Put Date.

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

“Put Fee” means, with respect to each Put Fee Payment Date and the related Accrual Period, a fee payable to the Department in consideration for its commitment to purchase Putable Loans under this Agreement equal to the sum of the Fixed Put Fee plus the Variable Put Fee.

“Put Fee Payment Date” means any date upon which any portion of the Put Fee is due and payable to the Department pursuant to the terms and provisions of the Transaction Documents.

“Put Notice” shall have the meaning set forth in Section 4A.

“Put Option” shall have the meaning set forth in Section 1A.

“Put Price” means, as of any 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 Put Event, 100% of the sum of the Principal Balance of such Loans on the related Put Date plus accrued and unpaid interest on such Loans through the day immediately preceding such 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 Loans on the related Put Date plus accrued and unpaid interest on such Loans through the day immediately preceding such Put Date.

“Relevant Loan Portfolio” means, with respect to a Seller, the complete portfolio of Eligible Loans (not including Restricted Loans) (i) owned by such Seller or (ii) serviced by a Servicer for that Seller, as applicable.

“Repurchase Condition” means, the occurrence of any of the following events or circumstances as determined by the Department in its sole, good faith discretion:

- (i) any representation or warranty made or furnished by the Seller pursuant to the related Purchase Agreement shall prove to have been materially incorrect as of the applicable Grant Date; or
- (ii) a Loan is not an Eligible Loan on its Grant Date.

“Repurchase Price” shall have the meaning set forth in Section 9A.

“Responsible Officer” means any officer of the Conduit Administrator who is authorized to act for the Conduit Administrator in matters relating to itself or to be acted upon by the Conduit Administrator pursuant to the Transaction Documents.

“Restricted Loan” means any Loan that may not be sold or pledged pursuant to a Purchase Agreement because (i) the servicing agreement under which such Loan is serviced provides that the servicing rights created thereunder are not transferable in the manner required by this Agreement or (ii) such Loan is subject to a financing arrangement the program documents of which contain restrictions on transferability of such Loan, such Loan is included in a term securitization or in the Loan Purchase Commitment Program or Loan Participation Purchase Program; provided, that, a Seller may deem a Loan not a Restricted Loan by delivering notice to the Conduit Administrator; provided further that, if a Loan is designated as a Restricted

Loan, it shall not be eligible to be included in a Relevant Loan Portfolio thereafter, unless (a) the Seller notifies the Conduit Administrator that such Loan is no longer a Restricted Loan within 90 days of such designation or (b) such Loan was a Restricted Loan pursuant to clause (ii) above and the Seller has subsequently obtained the ability to acquire, and includes in its next Relevant Loan Portfolio, all of the Loans in such financing or securitization.

“Revocation Date” shall have the meaning set forth in Section 4A.

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

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

“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 this Agreement or the other Transaction Documents.

“Securities” shall have the meaning set forth in the recitals hereof.

“Security Agreement” means the Security Agreement, dated as January 19, 2009, among the Conduit and the Trustee thereunder, as amended, supplemented or otherwise modified from time to time.

“Security Release Certification” means any release of lien documentation executed by the applicable lienholder with respect to one or more Loans in a form reasonably acceptable to the Department.

“Seller” means (i) an Eligible Lender, (ii) a holder of a beneficial interest in Loans, together with the Eligible Lender Trustee, as applicable, holding legal title to such Loans on its behalf or (iii) an Eligible Direct Issuer.

“Seller Closing Date” shall have the meaning set forth in Section 5A.

“Servicer” shall have the meaning set forth in Section 4H.

“Special Allowance Payments” means special allowance payments on FFELP 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.

“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 Loans, the square root of the applicable Variance divided by the square root of the Sample Size.

“Student Loan Purchase Agreement” shall have the meaning set forth in the recitals hereto.

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

“Summary Loan Schedule” means the schedule (in the form provided by the Department from time to time) attached to each Put Notice and Bill of Sale and delivered to the Department in connection with the Revocation Date pursuant to Section 4A hereof, or otherwise delivered to the Department at its request, and completed by or caused to be completed by the Conduit Administrator containing summary information with respect to the Putable Loans proposed to be sold to the Department on the related Put Date.

“Supplement” shall have the meaning set forth in the recitals hereto.

“Target Rate” means LIBOR.

“Threshold Test” shall be met with respect to a given category of 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 Documents” means all of the agreements relating to the Conduit, its purchase of Funding Notes and its issuance of Securities, each as approved by the Department and as may be amended (with the consent of the Department if required under Section 5E) including, without limitation, this Agreement, each Student Loan Purchase Agreement, each Funding Note Purchase Agreement, the Administration Agreement, each Eligible Servicing Agreement, each Liquidity Agreement and each agreement under which the Conduit issues Securities.

“Trust Receipt” means a trust receipt and certification issued by the Conduit Administrator (or an Eligible Sub-custodian on its behalf) in the form approved by the Department.

“Unsubsidized Stafford Loan” means a 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, with respect to each Put Fee Payment Date and the related Accrual Period, 80% or, if all amounts due and payable in respect of the Fixed Put Fee are not paid to the Department for three consecutive Put Fee Payment Dates, 100% of the product of (A) the excess, if any, of the Target Rate over the Conduit Cost of Funds Rate times (B) the average daily outstanding principal balance of the Funding Notes outstanding as of each day of such Accrual Period divided by (C) 360, times (D) the number of days in the related Accrual Period, in each case calculated and payable on a monthly basis in arrears.

“Variance” means, with respect to the Proposed Pool and a category of Loans, (a) with respect to average Principal Balance, (i) for each Loan in the Proposed Pool, calculate difference between the Principal Balance of such Loan and the Sample Mean, (ii) square such difference, (iii) sum all squared differences for the Proposed Pool and (iv) divide 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.

Section 4. Sale/Purchase.

A. Put Notice. Upon the occurrence of a Put Event, the Conduit Administrator shall deliver to the Department, with a copy to BMO Capital Markets Corp., as manager under the Conduit program, a notice (a “Put Notice”) in the form of Exhibit B attached hereto and, no later than the date five (5) days following the occurrence of such Put Event, the Conduit Administrator shall deliver to the Department an initial Summary Loan Schedule; provided, however, that, (i) with respect to a Put Event under clause (iv) of the definition thereof, the Conduit Administrator may deliver the Put Notice and the related Summary Loan Schedule on a later date, so that the Put Date corresponds with the maturity of the Securities, (ii) with respect to a Delinquency Put Event, the Conduit Administrator shall deliver a Put Notice and the related Summary Loan Schedule on the second Business Day of the Specified Week following the occurrence of such Put Event, and (iii) with respect to a Put Event under clause (i) of the definition thereof, the Conduit Administrator shall deliver an initial Summary Loan Schedule no later than the date forty five (45) days after the occurrence of the related Put Event.

Subject to Section 4B hereof, a Put Notice shall become irrevocable on the date (the “Revocation Date”) (a) with respect to a Put Event under clauses (i) through (iv) and (vi) of the definition thereof, fifteen (15) days after the delivery to the Department of such Put Notice and (b) with respect to a Delinquency Put Event, thirty (30) days after the date upon which such Put Event shall have occurred. On the Revocation Date, the Conduit Administrator shall deliver to the Department a revised Summary Loan Schedule; provided, however, that the Conduit Administrator shall deliver to the Department a revised Summary Loan Schedule relating to any Loan, with respect to which a Delinquency Put Event shall have occurred, on the second Business Day of the Specified Week that includes the date 30 days after the date upon which the related Put Notice was delivered.

Prior to the Revocation Date, an Eligible Direct Issuer or Funding Note Issuer may repay all or a portion of the Funding Note issued by such Eligible Direct Issuer or Funding Note Issuer and obtain a release from the lien of the related Funding Note of the related Loans in the case of a Delinquency Put Event or, in the case of any other Put Event, an appropriate portion of the Loans selected as described in Section 4E (provided no obligations to the Department or the Conduit which are then due from such Eligible Direct Issuer or Funding Note Issuer (or the related Seller) remain unpaid).

No later than the date eleven (11) Business Days prior to the related Put Date, the Conduit Administrator shall deliver or cause to be delivered to the Department a Conversion File (to the address provided by the Department from time to time) relating to the Putable Loans proposed to be sold to the Department on such Put Date.

No later than the date seven (7) Business Days prior to the related Put Date, the Department shall deliver or cause to be delivered to the Conduit Administrator a Loan Detail File relating to the Putable Loans proposed to be sold to the Department on such Put Date.

B. Auction. To the extent required under the applicable Funding Note Purchase Agreement, not later than the Revocation Date with respect to any Put Event under clauses (i) through (iv) and (vi) of the definition thereof, the Conduit or its agent shall conduct an Auction of the Putable Loans identified in the applicable Put Notice for a sale price not less than the related Put Price and in accordance with the procedures set forth in the Funding Note Purchase Agreement.

C. Consummation of Sale and Purchase. The sale and purchase of Putable Loans pursuant to a Bill of Sale as of any Put Date shall be consummated upon (i) the Department's receipt from the Conduit and the Conduit Administrator of the related Bill of Sale in the form attached hereto as Exhibit C, together with a Final Loan Schedule and Summary Loan Schedule attached thereto, (ii) the delivery of the Trust Receipt with respect to the related Loan Documents to the Department or its designee, (iii) the payment by the Department to the Conduit Administrator on behalf of the Conduit of the Put Price and (iv) the satisfaction of all other conditions precedent set forth in Section 5C hereof in the manner set forth in this Agreement (or if unsatisfied, the Department has permitted such unsatisfied conditions to be cured within an acceptable period of time following the Put Date, as evidenced in writing and in the Department's sole and absolute discretion). The Department, the Conduit and the Conduit Administrator in its capacity as Eligible Lender Trustee acknowledge and agree that the Put Price paid for each Loan sold to the Department hereunder includes consideration for release by the Conduit Administrator and the Conduit of any claim it may otherwise have with respect to related servicing rights appurtenant to such Loan. Upon consummation, such sale and purchase shall be effective as of the related Put Date.

D. Settlement of the Put Price. On the Put Date, the Department shall pay to the Conduit Administrator on behalf of the Conduit the Put Price by electronic transfer in funds available on such Business Day to the applicable Collection Accounts. The Department's obligation to pay the Put Price with respect to the Putable Loans on a Put Date will not be subject to set-off by the Department with respect to amounts owed to the Department by any Seller, any Funding Note Issuer, the Conduit or any Eligible Lender Trustees. Upon payment to the Conduit Administrator on behalf of the Conduit of the Put Price, each of the Conduit and the Conduit Administrator in its capacity as Eligible Lender Trustee shall sell, transfer, assign, set over and convey to the Department, without recourse, but subject to the terms of this Agreement, all of its rights, title and interest in and to the related Putable Loans, and all of the related servicing files and servicing rights appurtenant to the related Loans, the related Promissory Notes and other related Loan Documents (including, without limitation, any rights of the Conduit and the Conduit Administrator to receive from any third party any documents which constitute a part of the loan or servicing files) and all rights and obligations arising under the documents contained therein and the rights of the Funding Note Issuer under the applicable Purchase Agreements with respect to such Putable Loans.

E. Loan Allocation.

- (i) Loans Sold or Pledged Pursuant to a Purchase Agreement. Each Purchase Agreement shall require that, no later than the third Business Day prior to a sale or pledge as contemplated under such Purchase Agreement, the Seller shall deliver to the Department a Loan Data Schedule.

Each Purchase Agreement shall further require that if a Proposed Pool contains an amount of Loans that is less than the Relevant Loan Portfolio of a particular Servicer then servicing the Loans in such Seller's Relevant Loan Portfolio, the Seller shall select Loans for sale or pledge from the Relevant Loan Portfolio 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.

Each Purchase Agreement shall further provide that the following tests shall be conducted in sequential order for each Proposed Pool:

- (1) if the Proposed Pool of Loans selected in accordance with the preceding paragraph does not meet the Threshold Test with respect to the average Principal Balance, the Seller shall remove 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 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 Loan with the lowest Principal Balance and then the next lowest Principal Balance (and so on);
- (2) if the resultant Proposed Pool of Loans selected in accordance with clause (1) above does not meet the Threshold Test with respect to each category of school type, the Seller shall randomly remove 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 Loans does not meet the Threshold Test with respect to the remaining categories of school type, it shall randomly remove 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;
- (3) if the resultant Proposed Pool of Loans selected in accordance with clauses (1) and (2) above does not meet the Threshold Test with respect to each category of payment status, the Seller shall randomly remove 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 Loans does not meet the Threshold Test with respect to the remaining categories of payment status, it shall randomly remove 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

- (4) if the resultant Proposed Pool of Loans selected in accordance with clauses (1), (2) and (3) above does not meet the Threshold Test with respect to each category of loan type, the Seller shall randomly remove 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 Loans does not meet the Threshold Test with respect to the remaining categories of loan type, it shall randomly remove 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 Loans was selected at random from the Relevant Loan Portfolio of all Servicers then servicing the Relevant Loan Portfolio of such Seller, the Seller need not comply with clauses (1) through (4) 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 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 Seller may remove Loans at random until the intended size is achieved.

Notwithstanding anything to the contrary herein, each Proposed Pool of Loans sold or pledged pursuant to a Purchase Agreement 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.

- (ii) Loans Released from Funding Note Lien. Each Funding Note Purchase Agreement shall require that, pursuant to the terms and provisions of the Transaction Documents and the third paragraph of Section 4A of this Agreement, in the event that the Funding Note Issuer elects to repay a portion of the related Funding Note that is less than the entire balance thereof, (i) no later than the third Business Day prior to such repayment, the Funding Note Issuer shall deliver to the Department a Loan Removal Data Schedule and (ii) the Funding Note Issuer shall select Loans to be released from the lien of the related Funding Note at random (selected in the manner specified by the related Funding Note Issuer to, and approved by, the Department prior to such selection) within each applicable academic year.

Each Funding Note Purchase Agreement shall further provide that the following tests shall be conducted in sequential order for each Proposed Pool:

- (1) if the Proposed Pool of Loans selected in accordance with the preceding paragraph does not meet the Threshold Test with respect to the average Principal Balance, the Funding Note Issuer shall remove 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 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 Loan with the lowest Principal Balance and then the next lowest Principal Balance (and so on);
- (2) if the resultant Proposed Pool of Loans selected in accordance with clause (1) above does not meet the Threshold Test with respect to each category of school type, the Funding Note Issuer shall randomly remove 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 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;
- (3) if the resultant Proposed Pool of Loans selected in accordance with clauses (1) and (2) above does not meet the Threshold Test with respect to each category of payment status, the Funding Note Issuer shall randomly remove 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 Loans does not meet the Threshold Test with respect to the remaining categories of payment status, it shall randomly remove 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
- (4) if the resultant Proposed Pool of Loans selected in accordance with clauses (1), (2) and (3) above does not meet the Threshold Test with respect to each category of loan type, the Funding Note Issuer shall randomly remove 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 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 Loans selected to be released from the lien of the related Funding Note pursuant to such Funding Note Purchase Agreement 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.

(iii) Loan Put to Department. The Putable Loans sold and purchased pursuant to a Bill of Sale as of any Put Date (other than with respect a Put Event under clauses (iv) and (v) of the definition thereof) shall be selected by each Funding Note Issuer at random (in the manner specified in the related Funding Note Purchase Agreement) and allocated by the Conduit Administrator, pro rata, with respect to each Funding Note then owned by the Conduit as of such Put Date. The Putable Loans sold and purchased pursuant to a Bill of Sale as of any Put Date with respect a Put Event under clause (iv) of the definition thereof shall be selected by the applicable Funding Note Issuer at random (in the manner specified in the related Funding Note Purchase Agreement). Notwithstanding anything to the contrary, each pool of Putable Loans sold and purchased pursuant to such Bill of Sale must include either all or none of the Loans made to any related Borrower (i.e. "by account").

For the avoidance of doubt, the failure of any Person to comply with its obligations related to the allocation procedures described in this Section 4E shall not excuse or relieve the Department from its obligation to purchase Putable Loans pursuant to the Put Option.

F. Daily/Weekly Put Limit. Notwithstanding anything contained herein to the contrary, the Department shall not be required to purchase Loans hereunder for an aggregate Put Price (not including the Put Price related to Loans purchased hereunder with respect to which a Delinquency Put Event has occurred) in excess of (i) \$500,000,000 per week during any Calendar Week prior to July 20, 2009 or (ii) \$10,000,000,000 on any Put Date on or after July 20, 2009 (the "Daily Put Limit"). In addition, the Department will not be required to purchase Putable Loans on any Blackout Date.

G. Interest Subsidy and Special Allowance Payments and Fees. The Funding Note Issuer or Eligible Direct Issuer, as applicable, shall be entitled to all Interest Subsidy Payments and Special Allowance Payments on the Loans sold hereunder up to but not including the related Put Date, and shall be responsible for the payment of fees and other amounts due to the Department, if any, including, but not limited to, Negative Special Allowance Payments, applicable to Loans sold hereunder accruing from the date upon which the applicable Loans were sold and/or pledged pursuant to a Purchase Agreement, up to but not including the related Put Date. The Department shall be entitled to all interest and other payments on the Loans sold hereunder that accrues on and after the related Put Date.

H. Transfer of Servicing. With respect to all Loans sold hereunder, the Conduit or its agent shall, unless otherwise instructed by the Department as soon as reasonably practicable but

not less than five (5) Business Days prior to the applicable Put Date, cause the related Seller of such Loans or other servicer thereof (such entity, the “Servicer”) to transfer servicing in accordance with Section 13 and with industry standards related to the prudent servicing of FFELP loans on and as of the applicable Put Date.

I. Excluded Borrower Benefits. Prior to the sale of any Putable Loan to the Department, the Conduit or its agent shall apply funds in the Excluded Borrower Benefit Account (as defined below) to pay any Excluded Borrower Benefits to the Person entitled (or potentially entitled) to such benefit.

J. Intent of the Parties. With respect to each sale of Loans pursuant to this Agreement and the related Bills of Sale, it is the express intention of the Conduit, the Conduit Administrator in its capacity as Eligible Lender Trustee and the Department that the transfer and assignment constitute a valid sale of such Loans and the rights to service such Loans from the Conduit and the Conduit Administrator to the Department, and that the legal and beneficial interest in and title to such Loans shall not be part of the Conduit’s or the Conduit Administrator’s estate in the event of the bankruptcy of the Conduit or the Conduit Administrator or the appointment of a receiver with respect to the Conduit or the Conduit Administrator. If such transfer and assignment is deemed to be a pledge to secure a loan and not a sale, then the parties also intend and agree that each of the Conduit and the Conduit Administrator shall be deemed to have granted, and in such event does hereby grant, to the Department, a first priority security interest in all of its right, title and interest in, to and under such Loans, including the servicing rights appurtenant thereto, all payments of principal or interest on such Loans due after the related Put Date, all other payments made in respect of such Loans after the related Put Date and all proceeds thereof and that this Agreement shall constitute a security agreement under applicable law. If such transfer and assignment is deemed to be a pledge to secure a loan and not a sale, each of the Conduit and the Conduit Administrator consents to the Department hypothecating and transferring such security interest in favor of Department’s successors or assigns.

#### Section 5. Seller Closing Dates and Funding Dates; Put Conditions.

A. Closing Dates. In order to participate in the Conduit program, a Seller must execute and deliver (a) a Notice of Intent to Participate to the Department, with a copy to the Conduit Administrator and (b) a Purchase Agreement to the Conduit Administrator, with a copy to the Department. In addition, on or prior to the first date Eligible Loans are sold under the related Purchase Agreement (each, a “Seller Closing Date”), the applicable Seller and Funding Note Issuer shall deliver or cause to be delivered to the Conduit Administrator the documents required pursuant to such Purchase Agreement, including the following documents; however, for the avoidance of doubt, except as explicitly set forth in Section 5C, the failure of any Seller or Funding Note Issuer to make the deliveries or meet the requirements set forth in Section 5A in a form reasonably acceptable to the Department shall not excuse or relieve the Department from its obligation to purchase Putable Loans pursuant to the Put Option:

- (i) an officer’s certificate from the Seller, in the form approved by the Department, and all attachments thereto including, but not limited to, the

applicable formation documents, corporate resolutions and good standing certificates;

- (ii) incumbency certificates and specimen signatures of each officer authorized to execute the applicable Transaction Documents on behalf of the Seller;
- (iii) opinions of counsel to the Seller, in the form and substance approved by the Department, relating to corporate matters, legality, validity and enforceability of the related Purchase Agreement and other related documents, no-conflicts, true sale and nonconsolidation issues (except with regard to Eligible Direct Issuers) creation of a valid security interest and such other matters as the Department may request;
- (iv) UCC-1 financing statements in the form acceptable for filing under the Applicable UCC naming the applicable Seller(s) and the Funding Note Issuer, as debtor, and the Conduit as ultimate secured party or other similar instruments or documents as may be necessary under the Applicable UCC of all appropriate jurisdictions to perfect the transfers (including grants of security interests) under the Transaction Documents have been duly filed or recorded;
- (v) either (a) Applicable UCC search report results dated within 45 days of the Seller Closing Date listing all effective financing statements which name the Funding Note Issuer or the applicable Seller(s) (under its present name or any previous names) in any jurisdictions where filings are to be made under clause (iv) above (or similar filings would have been made in the past five years); or (b) an opinion of counsel to the Seller, in form and substance approved by the Department, relating to the priority of the Conduit's lien on the related Pledged Loans;
- (vi) executed copies of each of the Transaction Documents in form and substance acceptable to the Department (including, but not limited to, the related Purchase Agreement);
- (vii) evidence of establishment of the trust accounts in the name of the Funding Note Issuer; and
- (viii) an irrevocable power of attorney, which power of attorney is coupled with an interest, from such Seller to the Conduit Administrator and assignable to the Department granting the rights and powers specified in Section 6 with respect to the applicable Loans.

B. Funding Dates. On or prior to any sale and/or pledge of any Eligible Loan by a Seller (including the initial sale and/or pledge), such Seller shall deliver or cause to be delivered to the Conduit Administrator the documents required to be delivered to the Conduit Administrator, including the following documents; however, for the avoidance of doubt, except

as explicitly set forth in Section 5C, the failure of any Seller or Funding Note Issuer to make the deliveries or meet the requirements set forth in Section 5B in a form reasonably acceptable to the Department shall not excuse or relieve the Department from its obligation to purchase Puttable Loans pursuant to the Put Option:

- (i) an original Trust Receipt issued by the Conduit Administrator certifying that it, or a Servicer holding physical possession on its behalf in accordance with an Eligible Servicing Agreement, is in possession of the applicable Loan Documents relating to such Eligible Loans;
- (ii) releases and financing statement terminations on Form UCC-3, if necessary, to release any adverse claims on the Pledged Loans identified in the UCC search report or opinion delivered pursuant to Section 5A.(v) or otherwise disclosed by the related Seller to the Conduit Administrator;
- (iii) a bill of sale relating to the Eligible Loans sold or pledged pursuant to a Purchase Agreement;
- (iv) a copy of the fully executed Eligible Servicing Agreement(s) relating to such Loans to the extent not previously delivered in connection with any prior sale and/or pledge; and
- (v) in addition, on or prior to any sale and/or pledge of any Eligible Loan, an amount equal to the maximum amount of Excluded Borrower Benefits that could be payable on such Loan shall be deposited into a reserve account (each, an “Excluded Borrower Benefit Account”) held by the Conduit Administrator.

C. Put Conditions. Any sale of Puttable Loans pursuant to this Agreement on any Put Date is subject to the following conditions precedent being satisfied on or prior to such Put Date (and the Conduit and the Conduit Administrator, by accepting payment hereunder, shall be deemed to have certified that all such conditions are satisfied on such Put Date):

- (i) Activities Prior to the Related Put Date. The Notice of Intent to Participate, the Purchase Agreement and the documents required to be delivered pursuant to Sections 5A(iii) through (viii) and 5B(i) through (iii) shall have been delivered on or prior to the applicable Grant Date with respect to the Puttable Loans to be sold to the Department on such Put Date.
- (ii) Servicing Rights Transferred. The Department shall obtain all rights to service such Loan and any existing servicing agreement shall automatically terminate on and as of the applicable Put Date, unless the Department otherwise instructs as soon as reasonably practicable but not less than five (5) Business Days prior to the applicable Put Date.

(iii) Bill of Sale/Final Loan Schedule/Summary Loan Schedule/Loan Documents. The Conduit Administrator shall deliver to the Department on or prior to the Put Date (as indicated below):

- (1) Not less than five (5) Business Days prior to the applicable Put Date, a Bill of Sale that has been duly authorized and executed by an authorized officer of the Conduit and the Conduit Administrator, covering the applicable Putable Loans to be sold by the Conduit and the Conduit Administrator;
- (2) Not less than five (5) Business Days prior to the applicable Put Date, a Final Loan Schedule attached to the related Bill of Sale identifying each of the Putable Loans to be sold on the applicable Put Date;
- (3) Not less than five (5) Business Days prior to the applicable Put Date, a Summary Loan Schedule attached to the related Bill of Sale; and
- (4) On the related Put Date, a Trust Receipt for the Loan Documents for each Putable Loan listed in the applicable Final Loan Schedule.

D. Approval or Consent of Department. To the extent any provision of this Agreement requires approval or consent of the Department, the Department agrees to use commercially reasonable efforts to respond to any related request for such approval or consent within five (5) Business Days thereof and, if such approval or consent is granted by the Department, such approval or consent will be delivered in writing to the Conduit Administrator.

E. Amendment of Transaction Documents. None of the Transaction Documents shall be amended without the prior written consent of the Department; provided that, with not less than ten (10) Business Days' prior written notice to the Department, the applicable parties may enter into any such amendment that does not have an adverse effect on the Department.

F. Competitive Bidding. The Conduit or its agents shall conduct a competitive process to select any party receiving a fee in connection with the provision of services to the Conduit or otherwise relating to the Conduit program, including, but not limited to, the Conduit Administrator and the Liquidity Providers.

#### Section 6. Power of Attorney.

Each of the Conduit and the Conduit Administrator hereby grants to the Department an irrevocable power of attorney, which power of attorney is coupled with an interest, authorizing the Department to take the following actions as it determines necessary to enforce a Loan sold under this Agreement:

(i) to individually endorse or cause to be individually endorsed in the name of the Conduit or the Conduit Administrator any Loan (with respect to Loans that are not evidenced by electronic Promissory Notes),

(ii) to evidence the transfer of such Loan to the Department,

(iii) if the original Promissory Note evidencing a Loan sold to the Department hereunder executed by the Borrower has not been previously delivered to the Department, to the extent needed in connection with an enforcement proceeding with respect to such Loan, (A) to cause to be transferred physical possession from the Conduit Administrator or the Conduit to the Department any original Promissory Note and related Loan Documents, or (B) if (i) such Loan was made on the basis of a copy of the Promissory Note executed by the Borrower or (ii) the original Promissory Note is otherwise unavailable for transfer, to obtain confirmation from the related Seller of that fact and of the entity in possession of the original Promissory Note executed by the Borrower; provided that, if the Department notifies the Conduit Administrator of its intention to exercise its rights under clause (B)(ii) above, the Conduit Administrator and the Conduit shall attempt in good faith to obtain (or shall cause the related Seller to obtain) from the applicable entity the related original Promissory Note executed by the Borrower, and

(iv) to perform all other acts which the Department deems appropriate to protect, preserve and realize upon the Loans sold hereunder, including, but not limited to, the right to take possession of and endorse and collect any checks, drafts, notes, acceptances or other instruments for the payment of moneys due with respect to any Promissory Note, complete blanks in documents, transfer servicing and execute assignments and other instruments on behalf of the Conduit or the Conduit Administrator as its attorney in fact.

#### Section 7. Representations and Warranties of the Conduit Administrator.

A. Representations and Warranties as to the Conduit Administrator. The Conduit Administrator represents and warrants to the Department, as of each Effective Date, as of the date hereof, as of the date of each Bill of Sale and as of each Put Date that:

- (i) The Conduit Administrator (1) is duly organized, validly existing and in good standing under the laws of the State of its formation or of the United States, and (2) has all licenses necessary to carry out its business as now being conducted or is otherwise exempt under applicable law from such licensing or qualification or is otherwise not required under applicable law to effect such licensing or qualification and no demand for such licensing or qualification has been made upon it by any such state. No licenses or approvals obtained by it have been suspended or revoked by any court, administrative agency, arbitrator or governmental body and no proceedings are pending which might result in such suspension or revocation;
- (ii) The Conduit Administrator is a national or state-chartered bank, an “eligible lender” as such term is defined in Section 435(d) of the Higher



Education Act and has a lender identification number issued by the Department with respect to the Pledged Loans;

- (iii) The Conduit Administrator (1) has all requisite power and authority to execute, deliver and perform, and to enter into and consummate, all transactions contemplated by this Agreement, (2) has duly authorized the execution, delivery and performance of this Agreement and (3) has duly executed and delivered this Agreement. This Agreement, assuming due authorization, execution and delivery by the other parties hereto, constitutes the legal, valid and binding obligation of the Conduit Administrator, enforceable against it in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of rights of creditors generally, and to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or law);
- (iv) The execution and delivery of this Agreement by the Conduit Administrator and the performance of and compliance with the terms of this Agreement will not violate its formation documents or constitute a default under or result in a breach or acceleration of, any material contract, agreement or other instrument to which it is a party or which may be applicable to it or its assets;
- (v) The Conduit Administrator is not in violation of, and the execution and delivery of this Agreement by it and its performance and compliance with the terms of this Agreement will not constitute a violation with respect to, any order or decree of any court or any order or regulation of any federal, state, municipal or governmental agency having jurisdiction over it or its assets, which violation might have consequences that would materially and adversely affect the condition (financial or otherwise) or its operations or its assets or might have consequences that would materially and adversely affect the performance of its obligations and duties hereunder;
- (vi) The Conduit Administrator does not believe, nor does it have any reason or cause to believe, that it cannot perform each and every covenant contained in this Agreement;
- (vii) There are no actions or proceedings against, or investigations of, the Conduit Administrator before any court, administrative agency or other tribunal (A) that might prohibit its entering into this Agreement, (B) that seeks to prevent the sale of the Putable Loans or the consummation of the transactions contemplated by this Agreement or (C) that might prohibit or materially and adversely affect the performance by the Conduit Administrator of its obligations under, or the validity or enforceability of, this Agreement;

- (viii) No consent, approval, authorization or order of any court or governmental agency or body is required for the execution, delivery and performance by the Conduit Administrator of, or compliance by it with, this Agreement or the consummation of the transactions contemplated by this Agreement, except for such consents, approvals, authorizations or orders, if any, that have been obtained prior to the related Put Date;
- (ix) The Conduit Administrator has a combined capital and surplus of at least \$50,000,000, as set forth in its audited financial statements included in the most recent published annual report of condition;
- (x) The Conduit Administrator has a long-term senior unsecured debt rating of not less than investment grade by at least one of Standard & Poor's, a division of The McGraw-Hill Companies, Inc., Moody's Investors Service, Inc. or Fitch Ratings, Inc. or any of their successors in interest;
- (xi) The Conduit Administrator will not be affiliated with any Seller; and
- (xii) The Conduit Administrator has demonstrated, to the satisfaction of the Department, that it has the administrative capability and operating systems adequate to discharge faithfully the functions of the Conduit Administrator under this Agreement, and has allocated sufficient staff (including Responsible Officers of the corporation) to carry out such duties.

B. Representations and Warranties as to the Conduit. The Conduit represents and warrants to the Department, as of each Effective Date, as of the date hereof, as of the date of each Bill of Sale and as of each Put Date that:

- (i) The Conduit (1) is duly organized, validly existing and in good standing under the laws of the State of its formation or of the United States, and (2) has all licenses necessary to carry out its business as now being conducted or is otherwise exempt under applicable law from such licensing or qualification or is otherwise not required under applicable law to effect such licensing or qualification and no demand for such licensing or qualification has been made upon it by any such state. No licenses or approvals obtained by it have been suspended or revoked by any court, administrative agency, arbitrator or governmental body and no proceedings are pending which might result in such suspension or revocation;
- (ii) The Conduit (1) has all requisite power and authority to hold each Pledged Loan, to sell each Pledged Loan, and to execute, deliver and perform, and to enter into and consummate, all transactions contemplated by this Agreement, (2) has duly authorized the execution, delivery and performance of this Agreement and (3) has duly executed and delivered this Agreement. This Agreement, assuming due authorization, execution and delivery by the other parties hereto, constitutes the legal, valid and

binding obligation of the Conduit, enforceable against it in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of rights of creditors generally, and to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or law);

- (iii) The execution and delivery of this Agreement by the Conduit and the performance of and compliance with the terms of this Agreement will not violate its formation documents or constitute a default under or result in a breach or acceleration of, any material contract, agreement or other instrument to which it is a party or which may be applicable to it or its assets;
- (iv) The Conduit is not in violation of, and the execution and delivery of this Agreement by it and its performance and compliance with the terms of this Agreement will not constitute a violation with respect to, any order or decree of any court or any order or regulation of any federal, state, municipal or governmental agency having jurisdiction over it or its assets, which violation might have consequences that would materially and adversely affect the condition (financial or otherwise) or its operations or its assets or might have consequences that would materially and adversely affect the performance of its obligations and duties hereunder;
- (v) The Conduit does not believe, nor does it have any reason or cause to believe, that it cannot perform each and every covenant contained in this Agreement; and
- (vi) There are no actions or proceedings against, or investigations of, the Conduit before any court, administrative agency or other tribunal (A) that might prohibit its entering into this Agreement, (B) that seeks to prevent the sale of the Putable Loans or the consummation of the transactions contemplated by this Agreement or (C) that might prohibit or materially and adversely affect the performance by the Conduit of its obligations under, or the validity or enforceability of, this Agreement.

C. Loan Level Representations. Each of the Conduit and the Conduit Administrator, solely in its capacity as Eligible Lender Trustee for the Conduit, represents and warrants to the Department, as of the date of each Bill of Sale and as of each Put Date that:

- (i) It has full right and authority to sell, assign and transfer all of its own and the Funding Note Issuer's right, title and interest in the related Loan;
- (ii) It is transferring each related Loan free and clear of any and all liens, pledges, charges, or security interests of any nature of any third party encumbering such Loan resulting from its conduct with respect to the Loan, or suffered by it after the Grant Date;

- (iii) Except to the extent consistent with or contemplated by applicable laws, it has not modified the related Loan or the Loan Documents in any material respect, or satisfied, cancelled or subordinated such Loan in whole or in part or executed any instrument of release, cancellation or satisfaction with respect thereto;
- (iv) It has not, with respect to any Putable Loan sold under any Bill of Sale executed pursuant to this Agreement, agreed to release any Guarantor from any of its contractual obligations as a guarantor of such Putable Loan or agreed otherwise to alter, amend or renegotiate any material term or condition under which such Putable Loan is guaranteed, except as required by law or rules and regulations issued pursuant to law, without the express prior written consent of the Department;
- (v) It provided all notices and took all other actions in connection with the sale of each Loan to the Department hereunder, including, without limitation, any Auction, required by the applicable Funding Note Purchase Agreement and the Applicable UCC in order to transfer all right, title and interest in and to such Loan to the Department, free and clear of any right, title or interest of the applicable Funding Note Issuer; and
- (vi) Each Loan is a Putable Loan and all conditions to the exercise of the Put Option under Section 5C have been satisfied.

**Section 8. Representations of the Seller, the Eligible Lender Trustee and the Funding Note Issuer.**

A. Representations as to the Seller and the Eligible Lender Trustee. Pursuant to each Purchase Agreement (unless otherwise indicated below), the Seller party thereto, and to the extent expressly required below, the Eligible Lender Trustee, shall represent and warrant to the Funding Note Issuer, or the applicable purchaser party thereto, and its successors and assigns, and to the Conduit and its successors and assigns as to each Pledged Loan, in each case, as of the date of such Purchase Agreement and each Grant Date thereunder:

- (i) Each of the Seller and the Eligible Lender Trustee (if applicable) (1) is duly organized, validly existing and in good standing under the laws of the State of its formation or of the United States, as applicable, (2) has all licenses necessary to carry out its business as now being conducted or is otherwise exempt under applicable law from such licensing or qualification or is otherwise not required under applicable law to effect such licensing or qualification and no demand for such licensing or qualification has been made upon it by any such state, and (3) in any event is in compliance with the laws of any such state to the extent necessary to ensure the enforceability of each Loan. No licenses or approvals obtained by it have been suspended or revoked by any court, administrative agency, arbitrator or governmental body and no proceedings are pending which might result in such suspension or revocation;

- (ii) The Seller or the Eligible Lender Trustee (if applicable) is an “eligible lender” as such term is defined in Section 435(d) of the Higher Education Act, has a lender identification number issued by the Department with respect to the Loans, and has in effect a Guarantee Agreement with a Guarantor with respect to each of the Loans;
- (iii) With respect to each state or jurisdiction therein in which the Seller or, in the event that the Seller is a special purpose entity with respect to a securitization or other financing facility, its administrator, as applicable, undertakes origination activities, Seller or such administrator, as applicable, is in full compliance with such state’s or jurisdiction’s (as applicable) laws, rules, regulations, orders, settlement agreements and other standards and procedures, including those promulgated by agencies or officers thereof, applicable to it and pertaining to the conduct of participants in the student loan industry to the extent the Seller has assented to such voluntary code of conduct (including, without limitation, any applicable “code of conduct” for participants in the student loan industry that specifically and legally applies to the Seller or its administrator, as applicable, and the Eligible Lender Trustee (if applicable), to the extent that non-compliance with such a code of conduct would adversely affect the Department’s rights or interest with respect to the Putable Loans that it purchases);
- (iv) The Seller or, in the event that the Seller is a special purpose entity with respect to a securitization or other financing facility, its administrator, as applicable, has administered, operated and maintained its federal family education loan program in such manner as to ensure that such program and the Loans will benefit, in all material respects, from the FFELP, the Guarantee Agreements related thereto and the federal program of reimbursement for FFELP loans pursuant to the Higher Education Act;
- (v) The Seller has not, with respect to (i) any Loan sold under any bill of sale executed pursuant to a Student Loan Purchase Agreement or (ii) any Pledged Loan pledged under a Funding Note Purchase Agreement, agreed to release any Guarantor from any of its contractual obligations as a guarantor of such Loan or agreed otherwise to alter, amend or renegotiate any material term or condition under which such Loan is guaranteed, except as required by law or rules and regulations issued pursuant to law, without the express prior written consent of the Department;
- (vi) Each of the Seller and the Eligible Lender Trustee (if applicable) (1) has all requisite power and authority to hold each Loan, to sell each Loan, to pledge each Pledged Loan and to execute, deliver and perform, and to enter into and consummate, all transactions contemplated by such Purchase Agreement, (2) has duly authorized the execution, delivery and performance of such Purchase Agreement and (3) has duly executed and delivered such Purchase Agreement. Such Purchase Agreement, assuming

due authorization, execution and delivery by the other parties thereto, constitutes the legal, valid and binding obligation of the Seller and the Eligible Lender Trustee (if applicable), enforceable against each of them in accordance with its terms except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws affecting the enforcement of rights of creditors generally, and to general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or law); provided, however, that if the Seller is not an Eligible Lender, the power and authority to hold, sell and pledge each Loan described in clause (1) shall refer, with respect to the holder of the beneficial interests of such Loans, to the beneficial interest of the Seller, and with respect to the Eligible Lender Trustee, to its interest as the legal title holder of the Loan;

- (vii) The execution and delivery of such Purchase Agreement by each of the Seller and the Eligible Lender Trustee (if applicable) and the performance of and compliance with the terms of such Purchase Agreement will not violate its formation documents or constitute a default under or result in a breach or acceleration of, any material contract, agreement or other instrument to which it is a party or which may be applicable to it or its assets;
- (viii) Neither the Seller nor the Eligible Lender Trustee (if applicable) is in violation of, and the execution and delivery of such Purchase Agreement by it and its performance and compliance with the terms of such Purchase Agreement will not constitute a violation with respect to, any order or decree of any court or any order or regulation of any federal, state, municipal or governmental agency having jurisdiction over it or its assets, which violation might have consequences that would materially and adversely affect the condition (financial or otherwise) or its operations or its assets or might have consequences that would materially and adversely affect the performance of its obligations and duties thereunder;
- (ix) The Seller does not believe, nor does it have any reason or cause to believe, that it cannot perform each and every covenant contained in such Purchase Agreement;
- (x) There are no actions or proceedings against, or investigations of, the Seller before any court, administrative agency or other tribunal (A) that might prohibit its entering into such Purchase Agreement, (B) that seeks to prevent the sale or pledge of the Loans or the consummation of the transactions contemplated by such Purchase Agreement or (C) that might prohibit or materially and adversely affect the performance by the Seller of its obligations under, or the validity or enforceability of, such Purchase Agreement;

- (xi) No consent, approval, authorization or order of any court or governmental agency or body is required for the execution, delivery and performance by the Seller or the Eligible Lender Trustee (if applicable) of, or compliance by it with, such Purchase Agreement or the consummation of the transactions contemplated by such Purchase Agreement, except for such consents, approvals, authorizations or orders, if any, that have been obtained prior to the related Grant Date;
- (xii)
  - (1) With respect to any Student Loan Purchase Agreement, the transfer of the Loans shall be treated as a sale on the books and records of the Seller and the Eligible Lender Trustee (if applicable), and, to the extent consistent with the facts and circumstances of the transaction and applicable tax and accounting standards, each of the Seller and the Eligible Lender Trustee (if applicable) will treat the disposition of the Loans pursuant to such Purchase Agreement for tax and accounting purposes as a sale. Each of the Seller and the Eligible Lender Trustee (if applicable) shall maintain a complete set of books and records for each Loan which shall be clearly marked to reflect the ownership of each Loan by the Funding Note Issuer;
  - (2) With respect to any Funding Note Purchase Agreement, the Seller will cause (i) the transfer of the Pledged Loans to be treated as a secured financing on the books and records of the Funding Note Issuer and Eligible Lender Trustee (if applicable), and (ii) to the extent consistent with the facts and circumstances of the transaction and applicable tax and accounting standards, the Funding Note Issuer and Eligible Lender Trustee (if applicable) to treat the disposition of the Pledged Loans pursuant to such Funding Note Purchase Agreement for tax and accounting purposes as a secured financing. The Seller shall cause the Funding Note Issuer to maintain a complete set of books and records for each Pledged Loan which shall be clearly marked to reflect the ownership of each Pledged Loan by such Funding Note Issuer and Eligible Lender Trustee (if applicable) and all filings (including financing statement pursuant to the Applicable UCC) necessary in any jurisdiction to perfect the transfers and assignments contemplated in such Funding Note Purchase Agreement to perfect the Conduit's security interest in the Pledged Loans that is prior to any other interest held or to be held by any other Person have been made;
- (xiii) With respect to any Student Loan Purchase Agreement, the consideration received by the Seller upon the sale of the Loans constitutes fair consideration and reasonably equivalent value for such Loans;

- (xiv) The Seller is solvent and will not be rendered insolvent by the consummation of the transactions contemplated hereby. The Seller is not transferring any Loan with any intent to hinder, delay or defraud any of its creditors;
- (xv) The Seller or, in the event that the Seller is a special purpose entity with respect to a securitization or other financing facility, its administrator, as applicable, has an internal quality control program that verifies, on a regular basis, the existence and accuracy of its legal documents, credit documents and underwriting decisions, including all such documents and decisions that would affect the validity of the representations and warranties required under this Section 8A. The program shall include evaluating and monitoring the overall quality of the loan production and servicing of the loans of such Seller or administrator, as applicable. The program is to ensure that the Loans are originated and serviced in accordance with applicable law; guard against dishonest, fraudulent, or negligent acts; and guard against errors and omissions by officers, employees, or other authorized persons; and
- (xvi) The Seller will not adversely select Loans for sale or pledge pursuant to a Purchase Agreement; provided, that the selection procedures described in Section 4E shall be deemed not to be adverse.

B. Loan Level Representations. Pursuant to each Purchase Agreement (unless otherwise indicated below), the Seller, and to the extent expressly required below, the Eligible Lender Trustee (if applicable) (provided that the representations and warranties contained in subclauses (i)(2), (ii)(2), (iii)(2), (xiii)(2), (xiv)(2) and (xvi)(2) shall only be required to be made by the Funding Note Issuer) shall represent and warrant to the Funding Note Issuer and its successors and assigns as to each Loan purchased by the Funding Note Issuer, and to the Conduit and its successors and assigns as to each Pledged Loan, in each case, as of the related Grant Date thereunder:

- (i)
  - (1) With respect to any Student Loan Purchase Agreement, the Seller or the Eligible Lender Trustee (as applicable) has good and marketable title to, and the Seller and Eligible Lender Trustee (if applicable) together are the sole owners of, the Loans, free and clear of any security interest or lien (other than an interest or lien that will be released simultaneously with the purchase of the Loans thereunder pursuant to a Security Release Certification), charges, claims, offsets, defenses, counterclaims or encumbrances of any nature (including, without limitation, any circumstances that could impair transfer of title to the Loans free and clear of the claim of any party) and no right of rescission, offsets, defenses or counterclaims have been asserted or threatened with respect to any Loan. The sale of each Loan constitutes the absolute transfer of all



right, title and interests of the Seller and the Eligible Lender Trustee (if applicable) in such Loan to the Funding Note Issuer free and clear of any lien or adverse claim;

- (2) With respect to any Funding Note Purchase Agreement, the Funding Note Issuer with respect to beneficial ownership and its Eligible Lender Trustee with respect to record ownership, each has good and marketable title to and is the sole owner of, the Pledged Loans, free and clear of any security interest or lien (other than an interest or lien that (i) will be released simultaneously with the pledge of the Pledged Loans thereunder pursuant to a Security Release Certification or (ii) will be created in favor of the Conduit simultaneously with the pledge of the Pledged Loans thereunder pursuant to one or more financing statements filed in accordance with the Applicable UCC), charges, claims, offsets, defenses, counterclaims or encumbrances of any nature (including, without limitation, any circumstances that could impair the creation and perfection of the security interest in the Loans free and clear of the claim of any party) and no right of rescission, offsets, defenses or counterclaims have been asserted or threatened with respect to any Loan. The pledge of each Pledged Loan constitutes a grant by the Funding Note Issuer, with respect to beneficial ownership and its Eligible Lender Trustee with respect to record ownership to the Conduit of a security interest in all of the Funding Note Issuer's or Eligible Lender Trustee's, as applicable, property and right (including the power to convey title thereto), title, and interest, whether now owned or hereafter acquired, in and to the Pledged Loans, together with all amounts payable now or in the future with respect to the Pledged Loans;

(ii)

- (1) With respect to any Student Loan Purchase Agreement, each Loan is an Eligible Loan and the description of and information regarding the Loans set forth in the related bill of sale and any loan schedule prepared or delivered or in connection with the transfer thereof is true, complete and correct as of the date of the applicable loan schedule;
- (2) With respect to any Funding Note Purchase Agreement, each Pledged Loan is an Eligible Loan and the description of and information regarding the Pledged Loans set forth in any loan schedule prepared or delivered in connection with the pledge thereof is true, complete and correct as of the date of the applicable loan schedule;

(iii)

- (1) With respect to any Student Loan Purchase Agreement, the Seller or the Eligible Lender Trustee (as applicable) is authorized to sell, assign, transfer and reacquire the Loans; and the sale, assignment and transfer of such Loans is or, in the case of a Loan reacquisition by the Seller or the Eligible Lender Trustee (if applicable), will be made pursuant to and consistent with the laws and regulations under which each of the Seller and the Eligible Lender Trustee (if applicable) operates, and will not violate any decree, judgment or order of any court or agency, or conflict with or result in a breach of any of the terms, conditions or provisions of any agreement or instrument to which it is a party or by which it or its property is bound, or constitute a default (or an event which could constitute a default with the passage of time or notice or both) thereunder;
- (2) With respect to any Funding Note Purchase Agreement, the Funding Note Issuer with respect to beneficial ownership and the Eligible Lender Trustee with respect to record ownership is authorized to pledge the Pledged Loans and issue the related Funding Notes; and the pledge of such Pledged Loans and issuance of such Funding Notes are made pursuant to and consistent with all applicable laws and regulations, and will not violate any decree, judgment or order of any court or agency, or conflict with or result in a breach of any of the terms, conditions or provisions of any agreement or instrument to which it is a party or by which it or its property is bound, or constitute a default (or an event which could constitute a default with the passage of time or notice or both) thereunder;
- (iv) Each Loan is in full force and effect in accordance with its terms and is the legal, valid and binding obligations of the respective Borrower thereunder subject to no defenses;
- (v) Each Loan has been duly made and serviced in accordance with the provisions of the FFELP established under the Higher Education Act, and has been duly guaranteed by a Guarantor; the Guarantee Agreement is in full force and effect, and all premiums due and payable to such Guarantor as of the related Grant Date shall have been paid in full;
- (vi) Each Loan provides or, when the payment schedule with respect thereto is determined, will provide for payments on a periodic basis that fully amortize the Principal Balance thereof by its maturity, as such maturity may be modified in accordance with any applicable deferral or forbearance periods granted in accordance with applicable laws, including, those of the Higher Education Act or any applicable Guarantee Agreement, as applicable;

- (vii) Any payments on a Loan received by the Seller that have been allocated to the reduction of principal and interest on such Loan have been allocated on a simple interest basis;
- (viii) Each Loan has been duly made and serviced in accordance with all applicable federal, state and local laws;
- (ix) Due diligence and reasonable care have been exercised in the making, administering, servicing and collecting on each Loan and, all disclosures of information required to be made pursuant to the Higher Education Act prior to the Grant Date have been made;
- (x) Each Borrower is an eligible borrower under the terms of Section 428, 428B or 428H of the Higher Education Act, as applicable;
- (xi) All borrower origination and loan fees required by Section 438 of the Higher Education Act have been paid to the Secretary or appropriately reserved by the Seller or the Eligible Lender Trustee (if applicable) for payment to the Secretary;
- (xii) Each Loan is denominated and payable only in Dollars in the United States;
- (xiii)
  - (1) With respect to any Student Loan Purchase Agreement, the transfer and assignment contemplated therein constitute a valid sale of the Loans from the Seller or the Eligible Lender Trustee (if applicable) to the Funding Note Issuer, and the beneficial interest in and title to such Loans shall not be part of the Seller's or the Eligible Lender Trustee's (if applicable) estate in the event of its bankruptcy or the appointment of a receiver with respect to it;
  - (2) With respect to any Funding Note Purchase Agreement, the pledge contemplated therein constitutes the creation of a first priority security interest in favor of the Conduit, such security interest has been perfected and the Conduit shall be a secured creditor of the Funding Note Issuer in the event of its bankruptcy or the appointment of a receiver with respect to it;
- (xiv)
  - (1) With respect to any Student Loan Purchase Agreement, there is only one originally executed Promissory Note evidencing each Loan and such original Promissory Note (or a true and correct copy thereof) has been delivered to the designee of the Funding Note Issuer. If a true and exact copy of an original electronic

Promissory Note has been delivered to the Funding Note Issuer or its designee, the Seller of such Loan (or its designee) has possession of such electronic Promissory Note. The Promissory Notes that constitute or evidence the Loans do not have any marks or notations indicating that they have been further pledged, assigned or otherwise conveyed to any Person other than the Funding Note Issuer, the Eligible Lender Trustee or their designee (other than an interest or lien that will be released simultaneously with the purchase of the Loans under the related Purchase Agreement);

(2) With respect to any Funding Note Purchase Agreement, there is only one originally executed Promissory Note evidencing each Pledged Loan and such original Promissory Note (or a true and correct copy thereof) has been delivered to the Conduit Administrator on behalf of the Conduit or its designee. If a true and exact copy of an original electronic Promissory Note has been delivered to the Conduit Administrator on behalf of the Conduit or its designee, the Eligible Lender Trustee of such Loan (or its designee) has possession of such electronic Promissory Note. The Promissory Notes that constitute or evidence the Pledged Loans do not have any marks or notations indicating that they have been pledged, assigned or otherwise conveyed to any Person other than the Conduit or its designee (other than an interest or lien that will be released simultaneously with the purchase of the Loans under the related Purchase Agreement);

(xv) To the extent any Loan is evidenced by an electronic Promissory Note, the Seller has complied (and has caused any originator or servicer of the Loan to comply) with all regulations and other requirements adopted by the applicable Guarantor or the Department relating to the validity and enforceability of such Promissory Note;

(xvi)

(1) With respect to any Student Loan Purchase Agreement, neither the Seller nor the Eligible Lender Trustee (if applicable) has pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Loans (other than an interest or lien that will be released simultaneously with the purchase of the Loan thereunder pursuant to a Security Release Certification). Neither the Seller nor the Eligible Lender Trustee (if applicable) has authorized the filing of or is aware of any financing statements against it that include a description of collateral covering the Loans thereunder (whether or not any additional collateral is covered by such financing statements) or any other security interest that has not been terminated with respect to the applicable Loans, or that will not be

terminated with respect to the applicable Loans upon purchase by the Funding Note Issuer. Neither the Seller nor the Eligible Lender Trustee (if applicable) is aware of any judgment or tax lien filings against it;

- (2) With respect to any Funding Note Purchase Agreement, neither the Funding Note Issuer nor its Eligible Lender Trustee has pledged, assigned, sold, granted a security interest in, or otherwise conveyed any of the Pledged Loans (other than an interest or lien that (A) will be released simultaneously with the pledge of the Pledged Loans thereunder pursuant to a Security Release Certification or (B) will be created in favor of the Conduit simultaneously with the pledge of the Pledged Loans thereunder). Other than with respect to clause (B) in the preceding sentence, neither the Funding Note Issuer nor its Eligible Lender Trustee has authorized the filing of or is aware of any financing statements against it that include a description of collateral covering the Pledged Loans thereunder (whether or not any additional collateral is covered by such financing statements) or any other security interest that has not been terminated, or that will not be terminated upon the pledge by the Funding Note Issuer nor its Eligible Lender Trustee under the Funding Note Purchase Agreement. Neither the Funding Note Issuer nor its Eligible Lender Trustee is aware of any judgment or tax lien filings against it;

- (xvii) No Borrower of a Loan as of the related Grant Date, is noted in any loan file prepared in connection therewith as being currently involved in a bankruptcy proceeding;
- (xviii) The Loan satisfies all of the terms and conditions of the Transaction Documents;
- (xix) The Seller and, if applicable, the Eligible Lender Trustee had title to, and beneficial ownership of, the Loan on or after the date on which the Seller's Notice of Intent to Participate was received and acknowledged by the Department, and before July 1, 2010;
- (xx) The Loan was not delinquent for 210 days or more or subject to a claim filed with the applicable Guarantor;
- (xxi) The Loan has not been previously pledged to secure the related Funding Note;
- (xxii) The Loan is an Eligible Loan; and
- (xxiii) Either (i) the Loan is not subject to any Excluded Borrower Benefits or (ii) with respect to a Loan subject to Excluded Borrower Benefits, the amount

required to be deposited into the Excluded Borrower Benefit Account has been deposited.

C. Representations as to the Funding Note Issuer. Pursuant to any Funding Note Purchase Agreement to which the Funding Note Issuer is a party, the Funding Note Issuer shall make usual and customary representations and warranties and shall transfer its rights to enforce all breaches of representations and warranties made by the Seller in the Student Loan Purchase Agreement to the Conduit and, with respect to any Loans purchased by the Department, to the Department. In addition, the Funding Note Purchase Agreement will specify that any uncured breach of representations and warranties under a Student Loan Purchase Agreement by a Seller will also be an “event of default” under the Funding Note Purchase Agreement.

#### Section 9. Repurchase; Obligation to Reimburse and Indemnify

A. Each Purchase Agreement shall require that, upon the occurrence of any Repurchase Condition and the expiration of a 30-day cure period, upon written demand by the Conduit Administrator, the Funding Note Issuer or the Department, (i) prior to the occurrence of a Put Event, or if a Put Event has occurred, prior to the related Revocation Date, the Seller, if not an Eligible Direct Issuer, shall repay to the Funding Note Issuer, and in the case of any Eligible Direct Issuer, the Eligible Direct Issuer shall be required to deposit into the applicable Collection Account, an amount equal to the unpaid Principal Balance of such Loan, plus accrued and unpaid interest thereon and, if applicable, Negative Special Allowance Payments with respect to such Loan from the related Grant Date to and including the date of repayment (such amount, together with the fees costs and expenses referred to in clause (ii) below, the “Repurchase Price”) and (ii) with respect to any Loan for which a Put Event has occurred, after the Revocation Date with respect to such Put Event, the Seller shall pay any amounts owed to the Department with respect to such Loan, plus, in the case of (i) or (ii), any attorneys’ fees, legal expenses, court costs, servicing fees or other fees and expenses incurred by Funding Note Issuer, the Conduit, the Conduit Administrator or the Department in connection with such Loan.

Provided, that, each Purchase Agreement shall further provide that all of the rights of the Funding Note Issuer or the Conduit, as applicable, thereunder with respect to any Loans for which the Put Option is exercised shall be assigned to the Department and that after the Put Date with respect to a Loan, the Department shall have all repurchase and other rights against the Seller or Eligible Direct Issuer, as applicable, upon the occurrence of any of the conditions set forth in this Section 9 with respect to such Loan.

B. In addition to the obligation described above, the Seller shall indemnify the Funding Note Issuer, the Conduit Administrator and the Department and any subsequent purchaser of the Loans and hold them harmless against liability for any losses, damages, penalties, fines, forfeitures, reasonable and necessary legal fees and related costs, judgments, and other costs and expenses resulting from (i) any claim, demand, defense or assertion based on or grounded upon, or resulting from, any Repurchase Condition and from, (ii) any failure to pay an Excluded Borrower Benefit prior to the sale of any Loan to the Department, and (iii) against any taxes that may at any time be asserted against any such person with respect to the transactions contemplated herein and in the other documents related hereto, including any sales, gross receipts, general corporation, tangible and intangible personal property, privilege or license taxes

and costs and expenses in defending against the same; provided, that the indemnity provided by this clause (iii) with respect to any such taxes accruing after the applicable Grant Date, shall not in the aggregate exceed 10% of the Cash Proceeds received by such Seller. If any Seller is a special purpose entity, such Seller's repurchase and indemnification obligations described in this Section 9 shall be guaranteed by an appropriate credit-worthy entity.

C. Upon payment of the Repurchase Price, the Conduit Administrator or the Department (as applicable) shall promptly deliver to Seller or Seller's designated agent the related Loan Documents endorsed to the order of Seller or its designee, and all documentation relating to the administration of the Loan by the Conduit or Department (as applicable) subsequent to the Purchase Date or Put Event (as applicable) including without limitation, a payment history and a collection history.

Section 10. Obligation to Remit Subsequent Payments and Forward Communications.

A. Any payment received by the Conduit Administrator with respect to amounts accrued after the date of delivery of the Conversion File applicable to any Loan sold to the Department hereunder, which payment is not reflected in the related Conversion File, shall be held by the Conduit Administrator in trust for the account of the Department and each of the Conduit and the Conduit Administrator hereby disclaims any title to or interest in any such amounts. Within two (2) Business Days following the date of receipt of any such amounts identified to the Conduit Administrator as relating to any such Loan, the Conduit Administrator shall remit to the Department an amount equal to any such payments along with a listing on a form provided by the Department identifying the Loans with respect to which such payments were made, the amount of each such payment and the date each such payment was received.

B. Any written communication received at any time by the Conduit or any of its agents with respect to any Loan subject to this Agreement or the related Bill of Sale shall be transmitted to the Department, or its designated agent, within two (2) Business Days of receipt. Such communications shall include, but not be limited to, letters, notices of death or disability, notices of bankruptcy, forms requesting deferment of repayment or loan cancellation, and like documents.

Section 11. Continuing Obligation of the Conduit and the Conduit Administrator. Each of the Conduit and the Conduit Administrator shall provide all reasonable assistance necessary for the Department to resolve account problems raised by any Borrower, the Guarantor or the Secretary provided such account problems are attributable to or are alleged to be attributable to (a) an event occurring during the period after the related Loan was sold pursuant to a Purchase Agreement, or (b) a payment made or alleged to have been made to the Conduit or the Conduit Administrator.

Section 12. Liability of the Conduit Administrator; Indemnities.

A. The Conduit Administrator shall be liable in accordance herewith only to the extent of the obligations specifically undertaken by the Conduit Administrator under this Agreement and each related Bill of Sale. For the avoidance of doubt, the Conduit Administrator

shall have no obligation to pay from its own funds any amount required to be paid by the Conduit hereunder.

B. Each of the Conduit and the Conduit Administrator shall indemnify, defend and hold harmless the Department and its officers, employees and agents in their individual capacity, from and against liability for any and all costs, expenses (including, without limitation, costs and expenses of litigation and of investigation counsel fees, damages, judgments and amounts paid in settlement), losses, claims, damages and liabilities arising out of, or imposed upon such person through, the Conduit's or the Conduit Administrator's, as applicable, willful misfeasance, bad faith or negligence in the performance of its respective duties under this Agreement, or, in the case of the Conduit, by reason of its breach of any of its representations, warranties, covenants or other obligations or duties under this Agreement; provided that the Conduit's indemnification obligations shall be paid from amounts available therefor in accordance with the applicable Transaction Documents.

C. Notwithstanding anything to the contrary in this Agreement or any other Transaction Document, under no circumstances shall the Conduit Administrator be liable to the Department or any other Person for any consequential loss (including loss of business, goodwill, opportunity or profit) or any special or punitive damages of any kind whatsoever, in each case however caused or arising and whether or not foreseeable, even if advised of the possibility of such loss or damage.

D. Notwithstanding any term appearing in this Agreement to the contrary, the Conduit Administrator (i) shall not be liable for any action taken or omitted to be taken by it in accordance with this Agreement or the Transaction Documents or in connection herewith, unless such actions or omissions constitute bad faith, willful misconduct, negligence or fraudulent actions, (ii) shall not be liable with respect to any action it takes or omits to take in accordance with a direction from a party entitled to give such direction under the Transaction Documents (so long as the Conduit Administrator actions or omissions do not constitute willful misconduct, negligence, bad faith or fraudulent actions), (iii) shall not be liable for the title, validity, sufficiency, value, genuineness or transferability of any collateral, (iv) may request and rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order or other paper or document reasonably believed by it to be genuine and to have been signed or presented by the proper party or parties as may be required by such party or parties pursuant to the terms of this Agreement, (v) may consult with and obtain advice from legal counsel with respect to any question or matter arising hereunder or relating hereto, and the opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by the Conduit Administrator in accordance therewith and (vi) shall not be deemed to have notice of any fact or matter unless and until actually known to the Conduit Administrator or notice thereof referencing this Agreement in writing is received by the Conduit Administrator.

Indemnification under this Section 12 shall survive the resignation or the termination of this Agreement, and shall include reasonable fees and expenses of counsel and expenses of litigation. If the Conduit or the Conduit Administrator shall have made any indemnity payments pursuant to this Section and the person to or on behalf of whom such payments are made



thereafter shall collect any of such amounts from others, such Person shall promptly repay such amounts to the Conduit or the Conduit Administrator, as applicable, without interest.

Section 13. Transfer of Servicing.

The Conduit hereby agrees that all Loans subject to this Agreement shall be purchased by the Department on a servicing-released basis and are serviced by a Servicer that is not under sanction by the Department and in accordance with the regulations of the Department pursuant to an Eligible Servicing Agreement. Accordingly, upon purchase of any Loan hereunder, the Department shall obtain all rights to service such Loan and may, in its sole and absolute discretion, require deconversion of such Loan in order to service the Loan itself or through a third-party servicer of its designation. Upon the Department's exercise of its right to service the Loan itself or through a third-party servicer of its designation, the Department will be responsible for any boarding, conversion or related costs or fees of the new servicer and for notifying related Borrowers, through the use of (i) a letter from the old servicer acknowledging the conclusion of its role as servicer and (ii) a letter from the new servicer acknowledging the commencement of its role as servicer.

At the direction of the Department, the Conduit or its agents shall deliver, or cause the Servicer to deliver, the servicing and all related servicing files and records with respect to the Loans to the designee specified by the Department in accordance with the servicing transfer provisions provided by the Department to the Servicer; provided, however, that the Servicer and its designees may retain copies (in electronic or paper medium) of the servicing files related to the origination and servicing of the Loans sold to the Department hereunder. Each Purchase Agreement shall require that the related Funding Note Issuer or Eligible Direct Issuer, as applicable, shall be responsible for the selection of the Servicer and the payment of any servicing related fees and expenses incurred in connection therewith.

Each Eligible Servicing Agreement shall provide that, at any time, the Department and its representatives will have the right to request, schedule and conduct, during normal business hours and upon reasonable prior notice, a due diligence/audit of the Servicer's operations in respect to the servicing of all Loans subject to this Agreement and the related settlement reports at the expense of the related Servicer and the Department shall be provided any audit reports or other annual compliance/operational audits performed on the applicable Servicer relating to the servicing of Loans.

Section 14. Merger or Consolidation of, or Assumption of the Obligations of, the Conduit Administrator.

A. Any Person (a) into which the Conduit Administrator may be merged or consolidated, (b) which may result from any merger or consolidation to which the Conduit Administrator shall be a party or (c) which may succeed to the properties and assets of the Conduit Administrator substantially as a whole, shall be the successor to the Conduit Administrator without the execution or filing of any document or any further act by any of the parties to this Agreement; provided, that (i) the surviving Person, if other than the Conduit Administrator, shall, promptly following such merger or consolidation, execute and deliver to the Department an agreement of assumption to perform every obligation of the Conduit

Administrator under this Agreement and making the representations and warranties of the Conduit Administrator pursuant to Section 7; and (ii) the surviving person, if other than the Conduit Administrator, shall, promptly following such merger or consolidation, deliver to the Department an officers' certificate and an opinion of counsel with respect to general corporate and enforceability matters (each, satisfactory in form and substance to the Department) each stating that such consolidation, merger or succession and such agreement of assumption comply with this Section and that all conditions precedent, if any, provided for in this Agreement relating to such transaction have been complied with.

B. No resignation or termination of the Conduit Administrator shall become effective until the acceptance of appointment by a successor Conduit Administrator hereunder. Any such successor Conduit Administrator shall execute and deliver to the Department an agreement of assumption to perform every obligation of the Conduit Administrator under this Agreement and making the representations and warranties of the Conduit Administrator pursuant to Section 7 and shall deliver to the Department an officers' certificate and an opinion of counsel with respect to general corporate and enforceability matters (each, satisfactory in form and substance to the Department).

#### Section 15. Expenses.

Each of the parties hereto shall pay the legal fees and expenses of its attorneys in connection with the negotiation, preparation, execution and delivery of this Agreement and in connection with the review and negotiation of the other Transaction Documents. Each Purchase Agreement shall provide that the Seller, Eligible Lender Trustee or Eligible Direct Issuer, as applicable, shall pay all other costs and expenses incurred in connection with preparation, execution and delivery of such Purchase Agreement, the other Transaction Documents and any Bill of Sale and the transactions contemplated herein or therein, including, without limitation, the reasonable fees and out-of-pocket expenses of counsel for any Seller, Eligible Lender Trustee or Eligible Direct Issuer, as applicable, with respect thereto, and all other costs and expenses incurred in connection with the transfer and delivery of the Loans to a Funding Note Issuer or the Department or issuance of Funding Notes to the Conduit, including, without limitation, any fees and expenses incurred in connection with transferring ownership of any Loans to any such entity.

#### Section 16. Survival of Covenants.

All covenants, agreements, representations and warranties made herein and in or pursuant to any Bills of Sale executed pursuant to this Agreement shall survive the consummation of the acquisition of the Putable Loans provided for in the related Bill of Sale. All covenants, agreements, representations and warranties made or furnished pursuant hereto by the Conduit and the Conduit Administrator shall bind and inure to the benefit of any successors or assigns of the Department and shall survive with respect to each such Putable Loan.

#### Section 17. Communication and Notice Requirements.

All communications, notices and approvals provided for hereunder shall be in writing and mailed or delivered to the Conduit, the Conduit Administrator or the Department, as the case may be, at such address as either party may hereafter designate by notice to the other party. All

demands, notices and communications hereunder shall be in writing and shall be deemed to have been duly given if mailed, by registered or certified mail, return receipt requested, or, if by other means, when received by the other party at the address as follows and an appropriate confirmation is received:

If to the Department:

By U.S. Postal Service mail:

United States Department of Education  
400 Maryland Avenue, SW  
UCP, Room 111G3  
Washington, DC 20202-5402  
Attention: FFEL Agreement Process Team

By courier or express mail:

United States Department of Education  
830 First Street, N.E.  
Room 111G3  
Washington, DC 20202-5402  
Attention: FFEL Agreement Process Team

By email:

With respect to all Put Notices, Summary Loan Schedules, Conversion Files, Final Loan Schedules and Bills of Sale, conduitput\_1@ed.gov.

With respect to all other deliverables referenced herein, as provided herein or directed by the Department from time to time.

If to the Conduit:

Straight-A Funding, LLC  
c/o Global Securitization Services, LLC  
68 South Service Road, Suite 120  
Melville, New York 11747  
Attention: Frank Bilotta  
Tel. No.: (212) 302-5151  
Facsimile No.: (212) 302-8767

If to the Conduit Administrator:

The Bank of New York Mellon  
10161 Centurion Parkway, 3rd Floor  
Jacksonville, Florida 32256  
Attn: Derek Kettel (or Student Loan Group for a more generic descriptor)

Telephone: (904) 998-4716  
Email: [derek.kettel@bnymellon.com](mailto:derek.kettel@bnymellon.com)

With a copy to:

The Bank of New York Mellon  
101 Barclay Street, 4E  
New York, NY 10286  
Attn: Andrew J. Taylor  
Telephone: 212.815.2943  
E-mail: [andrew.j.taylor@bnymellon.com](mailto:andrew.j.taylor@bnymellon.com)  
Group E mail: [ITS-ABCP@bnymellon.com](mailto:ITS-ABCP@bnymellon.com)

If to BMO Capital Markets Corp.:

BMO Capital Markets Corp.  
115 S. LaSalle St.  
Chicago, IL 60603  
Attention: Bart Steenbergen  
[StraightA.issuer@bmo.com](mailto:StraightA.issuer@bmo.com)

Section 18. Form of Instruments.

All instruments and documents delivered in connection with this Agreement and any Bill of Sale, and all proceedings to be taken in connection with this Agreement and any Bill of Sale and the transactions contemplated herein and therein, shall be in a form as set forth in the attachments hereto, and the Department shall have received copies of such documents as it or its counsel shall reasonably request in connection therewith.

Section 19. Amendment; Waiver.

This Agreement, any Bill of Sale and any document or instrument delivered in accordance herewith or therewith may be amended by the parties hereto and thereto with the written consent of all parties hereto or thereto. No term or provision of this Agreement may be waived or modified unless such waiver or modification is consistent with the requirements of Section 459A of the Higher Education Act, is in writing and signed by the party against whom such waiver or modification is sought to be enforced.

Section 20. Audits; Independent Public Accountant Review and Annual Reports.

Pursuant to Section 432(f) of the Higher Education Act, each of the Conduit and the Conduit Administrator hereby grants the Department and its agents (including but not limited to, legal counsel and internal or external auditors), the right at any time and from time to time during regular business hours, upon reasonable notice, at the expense of the Conduit or the Conduit Administrator, as applicable, (i) to examine and make copies of and abstracts from all books, records and documents (including, without limitation, computer tapes and disks) in the possession or under the control of the Conduit or the Conduit Administrator relating to Loans

transferred hereunder and (ii) to visit the offices of the Conduit's agents, including, the Conduit Administrator for the purpose of examining such material described in clause (i) above, and to discuss matters relating to such Loans or the Conduit Administrator's performance hereunder with any officers and employees of the Conduit's agents, including, the Conduit Administrator having knowledge of such matters.

By April 15 of each year, commencing in April 2011, and by the date in 2010 agreed upon by the Department and the Conduit Administrator after they have agreed on the scope of the engagement and methodology to be used for the examination described in this section, the Conduit Administrator shall cause a registered public accounting firm (which may also render other services to the Conduit Administrator) and that is a member of the American Institute of Certified Public Accountants to furnish a report to the Department, to the effect that (i) it has obtained a representation regarding certain matters from the management of the Conduit Administrator, which includes an assertion that the Conduit Administrator has complied with the terms and provisions of the Transaction Documents and (ii) on the basis of an examination conducted by such firm in accordance with standards for attestation engagements to be performed under the "Government Auditing Standards" issued by the Comptroller General of the United States, and professional standards issued by American Institute of Certified Public Accountants, it is expressing an opinion as to whether such representation and assertion was fairly stated in all material respects, or it cannot express an overall opinion regarding such party's assessment of compliance with the Transaction Documents. In the event that an overall opinion cannot be expressed, such registered public accounting firm shall state in such report why it was unable to express such an opinion. Such report must be available for general use and not contain restricted use language and shall include among other things, the amount of proceeds received by the Conduit Administrator in connection with this Agreement and the use of such proceeds. The Conduit Administrator shall be entitled to reimbursement for the expense of such opinion from the Conduit; provided that the failure to obtain any such reimbursement shall not excuse the Conduit Administrator from delivering any such opinion.

Each of the Purchase Agreements and Eligible Servicing Agreements shall provide that, from time to time, the Department shall have the right to request, schedule and conduct, during normal business hours and upon reasonable prior notice, additional due diligence of the Conduit and the applicable Servicers, Sellers, Eligible Direct Issuers and Funding Note Issuers, relating to Loans subject to such Agreements, at such party's expense and that each such party shall be required to provide to the Conduit Administrator an annual statement of compliance with respect to the Transaction Documents, together with an agreed upon procedures letter delivered by an independent public accountant.

Additionally, on a periodic basis as requested by the Department, the Conduit or its agent shall deliver, or cause the Servicers, Sellers, Eligible Direct Issuers, as applicable, to deliver to the Department a standard reporting package acceptable to the Department containing information on Loans subject to Purchase Agreements and Eligible Servicing Agreements sorted by schools, delinquencies, and other features identified by the Department.

Section 21. Severability Clause.

Any part, provision, representation or warranty of this Agreement which is prohibited or which is held to be void or unenforceable shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof. Any part, provision, representation or warranty of this Agreement which is prohibited or unenforceable or is held to be void or unenforceable in any jurisdiction shall be ineffective, as to such jurisdiction, to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction as to any Loan shall not invalidate or render unenforceable such provision in any other jurisdiction. To the extent permitted by applicable law, the parties hereto waive any provision of law which prohibits or renders void or unenforceable any provision hereof. If the invalidity of any part, provision, representation or warranty of this Agreement shall deprive any party of the economic benefit intended to be conferred by this Agreement, the parties shall negotiate, in good-faith, to develop a structure the economic effect of which is nearly as possible the same as the economic effect of this Agreement without regard to such invalidity.

Section 22. Governing Law.

This Agreement and any Bill of Sale and the rights and obligations of the parties thereto shall be governed by and construed in accordance with Federal law. To the extent there may be no applicable Federal law, the internal laws of the State of New York (without giving regard to conflicts of laws principles other than Sections 5-1401 and 5-1402 of the New York General Obligations Law) shall be deemed reflective of Federal law insofar as to do so would not frustrate the purposes of any provision of this Agreement or the transactions governed thereby.

Section 23. Exhibits.

The exhibits to this Agreement are hereby incorporated and made a part hereof and are an integral part of this Agreement.

Section 24. General Interpretive Principles.

For purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires:

A. The terms defined in this Agreement have the meanings assigned to them in this Agreement and include the plural as well as the singular, and the use of any gender herein shall be deemed to include the other gender;

B. Accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles;

C. References herein to “Articles,” “Sections,” “Subsections,” “Paragraphs,” and other Subdivisions without reference to a document are to designated Articles, Sections, Subsections, Paragraphs and other subdivisions of this Agreement;

D. Reference to a Subsection without further reference to a Section is a reference to such Subsection as contained in the same Section in which the reference appears, and this rule shall also apply to Paragraphs and other subdivisions;

E. The words “herein,” “hereof,” “hereunder” and other words of similar import refer to this Master Loan Sale Agreement as a whole and not to any particular provision; and

F. The term “include” or “including” shall mean without limitation by reason of enumeration.

Section 25. Reproduction of Documents.

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications which may hereafter be executed, (b) documents received by any party at the closing, and (c) financial statements, certificates and other information previously or hereafter furnished, may be reproduced by any photographic, photostatic, microfilm, micro-card, miniature photographic or other similar process. The parties agree that any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding, whether or not the original is in existence and whether or not such reproduction was made by a party in the regular course of business, and that any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence.

Section 26. Further Agreements.

Each of the Conduit and the Conduit Administrator agrees to execute and deliver to the Department other such reasonable and appropriate additional documents, instruments or agreements as may be necessary or appropriate to effectuate the purposes of this Agreement. Each of the Conduit and the Conduit Administrator further agrees that, upon the request of the Department, it shall provide to the Department copies of any documents received by it pursuant to the terms and provisions of a Purchase Agreement, including, but not limited, to the documents set forth in Section 5 hereof and any affidavit or certification described in 34 C.F.R. Section 682.414(a)(6)(i).

Section 27. No Petition.

The Department hereby covenants and agrees with respect to the Conduit that, prior to the date which is one year and one day (or, if longer, any applicable preference period plus one day) after the payment in full of all outstanding indebtedness of the Conduit, it will not institute against or join any other Person or entity in instituting against the Conduit or any Funding Note Issuer any bankruptcy, reorganization, arrangement, insolvency or liquidation proceedings or other similar proceeding under the laws of the United States or any state of the United States. The foregoing shall not limit the rights of the Department to file any claim in, or otherwise take any action with respect to, any insolvency proceeding instituted against the Conduit or any Funding Note Issuer by a Person other than the Department. The provisions of this Section 27 shall survive the termination of this Agreement.

Section 28. Tax Matters.

Each of the Department and the Conduit hereby agree to treat this Agreement (and all amounts paid or accrued hereon) as consisting of an agreement solely by and between the Department and the Funding Note Issuers for all U.S. federal, state and local income and franchise tax purposes and shall take no position inconsistent therewith, unless otherwise required by law.

Section 29. Effect of Amendment and Restatement.

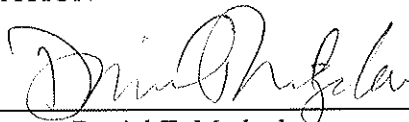
The Department hereby acknowledges that the Conduit, the Conduit Administrator and certain Sellers have executed Purchase Agreements in reliance on the provisions of the Original Amended and Restated Put Agreement that were in effect prior to the date of this Agreement. The Conduit and the Conduit Administrator hereby agree to use commercially reasonable efforts to amend such Purchase Agreements to conform the terms and provisions thereof to the document delivery requirements set forth in Section 4 of this Agreement (“Delivery Requirements”). Notwithstanding this obligation, until such time that the Conduit and the Conduit Administrator cause the related Sellers and other parties to such Purchase Agreements to enter into such amendments, so long as the Conduit and the Conduit Administrator comply with the existing provisions of such Purchase Agreements and the provisions of the Original Amended and Restated Put Agreement, the Department hereby agrees to honor its obligation to purchase Puttable Loans as if the Delivery Requirements had been satisfied.

[NO FURTHER TEXT ON THIS PAGE]



IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers hereunto duly authorized, as of the day and year first above written.

UNITED STATES DEPARTMENT OF  
EDUCATION

By:   
Name: Daniel T. Madzelan  
Title:

THE BANK OF NEW YORK MELLON, in its  
capacity as Conduit Administrator and Eligible  
Lender Trustee

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

STRAIGHT-A FUNDING, LLC

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers hereunto duly authorized, as of the day and year first above written.

UNITED STATES DEPARTMENT OF  
EDUCATION

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

THE BANK OF NEW YORK MELLON, in its  
capacity as Conduit Administrator and Eligible  
Lender Trustee

By: Tatyana Basis  
Name:  
Title: **TATYANA BASIS**  
**ASSISTANT TREASURER**

STRAIGHT-A FUNDING, LLC

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

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective officers hereunto duly authorized, as of the day and year first above written.

UNITED STATES DEPARTMENT OF  
EDUCATION

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

THE BANK OF NEW YORK MELLON, in its  
capacity as Conduit Administrator and Eligible  
Lender Trustee

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

STRAIGHT-A FUNDING, LLC

By: Jill Russo  
Name: Jill A. Russo  
Title: Vice President

**EXHIBIT A**

**INTENTIONALLY LEFT BLANK**

**EXHIBIT B**

**FORM OF PUT NOTICE**

\_\_\_\_\_, 20\_\_

United States Department of Education  
Washington, D.C.  
By: E-mail: conduitput\_1@ed.gov

Re: Third Amended and Restated Put Agreement, dated as of April 26, 2010, by and among the Department of Education, Straight-A Funding, LLC and The Bank of New York Mellon

Ladies and Gentlemen:

Pursuant to the terms and provisions of the Third Amended and Restated Put Agreement (the "Put Agreement"), dated as of April 20, 2010, by and among the United States Department of Education (the "Department"), Straight-A Funding, LLC (the "Conduit") and The Bank of New York Mellon, acting (i) as agent on behalf of the Conduit in its capacity as conduit administrator (the "Conduit Administrator") and as Eligible Lender Trustee and (ii) as agent for each Funding Note Issuer for the sole purposes of accepting the Put Option, the Conduit Administrator hereby gives notice of its intent to exercise the Put Option with respect to not more than \$ \_\_\_\_\_ of the loans (the "Loans") on \_\_\_\_\_, 20\_\_ (the "Put Date").<sup>1</sup>

Each of the Put Events marked below have occurred with respect to the Loans:

1. \_\_\_\_ Pursuant to the terms and provisions of any Liquidity Agreement, any failure to make a Liquidity Funding when due; provided, that, a Put Event shall not be deemed to occur under this clause (i) if the related Liquidity Funding shall have been made by any other Person; or
2. \_\_\_\_ Pursuant to the terms and provisions of any Liquidity Agreement, any Liquidity Funding which remains unpaid for more than forty-five (45) days after the date on which such Liquidity Funding was made in accordance with such Liquidity Agreement; or
3. \_\_\_\_ The occurrence of the date that is 45 days prior to the Put Expiration Date (provided, that a Put Event shall occur on each date preceding such forty-fifth day

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<sup>1</sup> If the amount exceeds the limit set forth in Section 4E of the Put Agreement, please specify multiple Put Dates not less than forty-five days after the date of this notice.

to the extent necessary in order to ensure that the Daily Put Limit is not exceeded on any related Put Date); or

4. \_\_\_\_ The declaration or automatic occurrence of a Funding Note “event of default” (as defined in any Funding Note Purchase Agreement), including, without, limitation, an event of default relating to a Seller’s breach of its Commitment to Lender under FFELP obligations described under Section 2 of the Put Agreement; or
5. \_\_\_\_ An occurrence of Delinquency Put Event; or
6. \_\_\_\_ The occurrence of the date (or, if such date is not a Business Day, the immediately preceding Business Day) that is 45 days prior to the maturity date of any Additional Securities (provided, that a Put Event shall occur on each date preceding such forty-fifth day to the extent necessary in order to ensure that the Daily Put Limit is not exceeded on any related Put Date).

With respect to the Loans that have been designated as Put Events (1), (2), (3), (4) or (6) Loans, this Notice shall become irrevocable on the date fifteen (15) days from the date hereof and with respect to a Delinquency Put Event, this Notice shall become irrevocable on the date thirty (30) after the date upon which such Put Event shall have occurred.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Put Agreement.

Very truly yours,

The Bank of New York Mellon, in its capacity as  
Conduit Administrator and Eligible Lender Trustee

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

**Schedule 1**

**Summary Loan Schedule**

## **EXHIBIT C**

### **FORM OF BILL OF SALE**

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, pursuant to the terms and provisions of that certain Third Amended and Restated Put Agreement (the “Put Agreement”), dated April 26, 2010, by and among the Department of Education (the “Department”), Straight-A Funding, LLC (the “Conduit”) and The Bank of New York Mellon (“Conduit Administrator”), subject to the receipt of the Put Price on the Put Date, the Conduit, the Conduit Administrator, as Eligible Lender Trustee on behalf of the Conduit and as agent of the applicable Funding Note Issuer, hereby sells, transfers, assigns, sets over and conveys to the Department, without recourse, as of **[INSERT RELATED PUT DATE]** (the “Put Date”), all of the right, title and interest of the Conduit and the Conduit Administrator in and to the loans (“Loans”) listed on the Final Loan Schedule attached hereto (including without limitation any and all rights of the Conduit and the Conduit Administrator with respect to the Loans under that certain Purchase Agreement dated as of \_\_\_\_\_, 20\_\_, by and **[between/among] [LIST PARTIES]**), together with the related servicing files and servicing rights appurtenant thereto, the related Promissory Notes and related Loan Documents (including, without limitation, any rights of the Conduit Administrator to receive from any third party any documents which constitute a part of the loan or servicing files) and all rights and obligations arising under the documents contained therein (the “Related Assets”).

As of the Put Date, subject to the receipt of the Put Price, the Conduit hereby releases the lien held by the Conduit on the Loans and the Related Assets and hereby authorized the Department or its designee to file all appropriate termination statements in accordance with the Applicable UCC.

The Conduit and the Conduit Administrator hereby state that a Put Event has occurred in connection with an obligation secured by the Loans and the Related Assets of the applicable Funding Note Issuer, the Conduit Lender has exercised its post-Put Event remedies with respect to the Loans and Related Assets and by reason of such exercise, as of the Put Date, the Department shall acquire all of the rights of Funding Note Issuer in the Loans and Related Assets.

As of the Put Date, the ownership of each Loan and the related Promissory Note and the contents of the loan file and servicing file shall be vested in the Department and the ownership of all records and documents with respect to the related Loan prepared by or which come into the possession of the Conduit or any of its agents, including the Conduit Administrator shall immediately vest in the Department and be delivered to the Department or its designee (except that copies thereof may be retained as provided in the Put Agreement). During any period that the related loan files and servicing files are retained by the Conduit Administrator, such files shall be retained and maintained, in trust, by the Conduit Administrator for the benefit of the Department.

Each of the Conduit and the Conduit Administrator confirms to the Department that, as of the date hereof, the Put Conditions set forth in Section 5C of the Put Agreement have each been



satisfied with respect to the Loans (other than with respect to Section 5C(iii)(4), which shall be satisfied on or before the Put Date).

Each of the Conduit and the Conduit Administrator authorizes the Department to use a copy of this Bill of Sale, including the attached Final Loan Schedule and Summary Loan Schedule, as official notification to the applicable Guarantor of assignment to the Department of the Loans purchased pursuant hereto on the Put Date.

This Bill of Sale excludes an assignment of right[s] of the Seller to offer future loans under such Promissory Note, and the Seller expressly reserves such right to offer future Loans under such Promissory Note. The Department agrees and warrants that it will not offer or make any future loans under such Promissory Note.

Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Put Agreement.

IN WITNESS WHEREOF, the undersigned has executed and delivered this Bill of Sale as of the date first above written.

THE BANK OF NEW YORK MELLON, in its  
capacity as Conduit Administrator and Eligible  
Lender Trustee

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

STRAIGHT-A FUNDING, LLC

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

**Schedule 1**

**Final Loan Schedule**

**Schedule 2**

**Summary Loan Schedule**

## **EXHIBIT D**

### **FORM OF NOTICE OF INTENT TO PARTICIPATE**

#### **NOTICE OF INTENT TO PARTICIPATE THROUGH FFELP STUDENT LOAN CONDUIT<sup>1</sup>**

[\_\_\_\_\_, 200\_]

U.S. Department of Education  
Washington, D.C.  
By: E-mail: [ffel.agreementprocess@ed.gov](mailto:ffel.agreementprocess@ed.gov)

The Bank of New York Mellon,  
as Conduit Administrator

**Re:    Loan Purchase Commitment Program for Eligible FFELP Loans**

Ladies and Gentlemen:

The undersigned, an eligible Federal Family Education Loan Program (“FFELP”) lender under Section 435(d)(1) of the Higher Education Act of 1965, as amended (“HEA”) [or a holder of beneficial interests in FFELP loans, with \_\_\_\_\_, an eligible lender trustee] ([together] “the Lender”), intends to sell FFELP loans to [name of Funding Note Issuer and name of SPV ELT if applicable] (together the “SPV”). The Lender and SPV hereby notify the Department of Education (the “Department”) that they intend to participate in the Loan Purchase Commitment Program authorized under section 459A of the HEA. The SPV will purchase loans from the Lender with financing from Straight-A Funding, LLC, an asset-backed commercial paper conduit (the “Conduit”). Conduit will hold a security interest in the loans purchased by the SPV, and holds a Put Agreement with the Department pursuant to the Notice of Terms and Conditions of Purchase of Loans under the Ensuring Continued Access to Student Loans Act of 2008 (“Federal Register Notice”) published in the Federal Register, Vol. 74, pg. 2518, January 15, 2009.

In consideration of the agreement of the Department to purchase eligible loans sold by the Lender to the SPV, the Lender hereby agrees that:

1. The Lender will continue to originate or acquire FFELP loans made to students and parents and to participate in the FFEL Program in accordance with the terms of the Purchase Agreement entered into by the Lender with the SPV.
2. The Lender warrants to the Conduit and to the Department that each representation the Lender makes regarding a loan it sells to the SPV will be true and correct at the time of sale to the SPV.
3. The Lender will be bound by the indemnification and recourse provisions included in the Purchase Agreement.

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<sup>1</sup> To be revised as appropriate for Eligible Direct Issuers.

[If a Loan was made on the basis of a copy of the original promissory note, the Lender agrees to provide to the Department upon the Department's request a statement explaining that the particular Loan was made on the basis of that copy of the promissory note and the name of the person or entity in possession of the original promissory note.]

By filing this Notice of Intent to Participate Through FFELP Student Loan Conduit (this "Notice"), the SPV accepts the offer of the Department to purchase loans acquired by the SPV from the Lender with financing from the Conduit. The SPV hereby grants to the Conduit and its Conduit Administrator exclusive authority to exercise that right to sell such loans pursuant to the Put Agreement.

The Department will return to the Lender and SPV, via electronic mail (e-mail), receipt and acceptance by the Department of this Notice.

The Department will accept signed copies of this Notice sent as a PDF attachment via the Department's e-mail address listed below.

The Lender and SPV are aware that they must refer to the Federal Register Notice and to the agreements referred to therein for a complete description of the terms and conditions under which the Department will administer the Loan Purchase Commitment Program with respect to the Conduit operated by Conduit. The Lender and SPV also acknowledge that in order to participate in the Loan Purchase Commitment Program through participation in the FFELP Student Loan Conduit, they must execute a Purchase Agreement prescribed by Conduit containing terms specified in the Federal Register Notice.

[If the Lender includes a beneficial holder of FFELP loans, the Lender has included on this form the LID(s) under which this beneficial holder and its ELT operate. If the party filing this notice is an ELT that files this Notice on behalf of its beneficial holders of FFELP loans, the ELT includes the name and LID of each of those beneficial holders.]

This Notice is hereby executed and dated as of the date first listed above.

The Lender asks that the Department please direct all inquiries and correspondence relating to these programs to:

[Lender Name And Lender ID Number]

[ELT Name Or Beneficial Holder Name, If Any, And LIDs]

[Street Address]

[City], [State] [Zip]

Attention Of: [Name], [Title]

By Phone - [XXX-XXX-XXXX]

By Fax - [XXX-XXX-XXXX]

By E-mail - [email address]

[NAME OF ENTITY]

By: \_\_\_\_\_

Name:

Title:

[SPV Name and Name of ELT for SPV]  
[Street Address]  
[City], [State] [Zip]  
Attention Of: [Name], [Title]  
By Phone - [XXX-XXX-XXXX]  
By Fax – [XXX-XXX-XXXX]  
By E-mail – [email address]

[NAME OF ENTITY]

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

The completed, signed, and dated Notice should be sent as a PDF attachment to an e-mail message addressed to [ffel.agreementprocess@ed.gov](mailto:ffel.agreementprocess@ed.gov). The e-mail message subject line should read “Submission of Notice of Intent to Participate.”

The completed, signed, and dated Notice should also be sent to the Conduit as a PDF attachment to an e-mail message addressed to [xxxxxxxxxx@conduit.com](mailto:xxxxxxxxxx@conduit.com). The e-mail message subject line should read “Submission of Notice of Intent to Participate in Conduit ”

For questions concerning the submission and receipt of the email please call (202) 377-4401.