

ASSURANCE OF VOLUNTARY COMPLIANCE

This Assurance of Voluntary Compliance or Assurance of Discontinuance, (“Assurance”), is voluntarily entered into between Student Loan Xpress, Inc. (“SLX” or “Respondent”) and the Attorneys General of the states of California, Florida, Georgia¹, Idaho, Illinois, Missouri, Montana, Nevada, Oklahoma, Oregon, Utah² and Washington (“States” or “Attorneys General”). This agreement is solely intended to resolve the States’ investigation into whether SLX, including its officers, directors, employees and agents, engaged in any unlawful or deceptive trade practices relating to private student loans for students of Silver State Helicopters LLC (“Silver State”), or the acquisition of such loans from originating lenders, including Liberty Bank, N.A. (“Liberty Bank”).

BACKGROUND

- 1.1 Silver State began in 2002 as a small helicopter pilot training school near Las Vegas, Nevada. Silver State expanded quickly by signing up new students through sales presentations or seminars around the country.
- 1.2 At its zenith, Silver State operated 34 flight schools in 17 states, and had approximately 2700 students on its rolls. Tuition at the school typically was \$69,900 for each student. The course of instruction was intended to be completed within 12-18 months, resulting in the student receiving the following certifications or ratings: (i) Private Pilot Certificate (Rotorcraft), (ii) Commercial Pilot Certificate (Rotorcraft), (iii) Certified Flight Instructor Certificate (Rotorcraft), (iv) Instrument Rating, (v) External Load Proficiency Course, and (vi) Turbine Transition. The certifications and rating listed

¹ With regard to Georgia, the Administrator of the Fair Business Practices Act, appointed pursuant to O.C.G.A. 10-1-395, is statutorily authorized to undertake consumer protection functions for the State of Georgia. Hereafter, references to the “States” or “Attorneys General,” as it pertains to Georgia, includes the Administrator of the Fair Business Practices Act.

² With regard to Utah, the Utah Division of Consumer Protection is statutorily authorized to undertake consumer protection functions for the State of Utah. Hereafter, references to the “States” or “Attorneys General,” as it pertains to Utah, include the Utah Division of Consumer Protection.

in (i)-(iv) are referred to as “FAA Certifications” because they are recorded and available for review on the Federal Aviation Administration website, <https://amsrvs.registry.faa.gov/airmeninquiry>.

- 1.3 Students allege that the training provided by Silver State was inadequate, compounded by a lack of teachers, too few flight simulators, and a lack of helicopters with which to train. As a result, many students left the school without obtaining all possible certifications. More than half of the students who were enrolled at the date of the school’s closure and whose loans are held by SLX did not receive a single certification. Silver State ultimately filed a Chapter 7 bankruptcy petition in Nevada and ceased operations in February 2008. Later in 2008, putative private class action lawsuits were filed in Florida, California, Nevada and South Carolina on behalf of certain former Silver State students.
- 1.4 SLX was founded in January 2002. SLX’s primary business was to originate and to acquire higher education loans. From August, 2005 to September, 2007, SLX was the preferred student loan provider for Silver State. During this time period, SLX acquired approximately \$180,000,000 in Silver State student loans originated by Liberty Bank (the “Loans”). The Loans were issued pursuant to promissory notes executed by the borrowers and co-signors if applicable (the “Promissory Notes”).
- 1.5 The Promissory Notes did not contain the language set forth in 16 CFR 433.2, known as the Federal Trade Commission’s Holder Rule (the “Holder Rule”). The Holder Rule language, some States contend, is required by several state statutes. The States and SLX disagree as to whether the Holder Rule notice language was required in the Promissory Notes under the facts of this matter, and as to the legal implications of the notice language being absent, and no finding or admission is made here in either regard.
- 1.6 In 2007 and early 2008, several of the Attorneys General commenced consumer protection investigations into the business practices of Silver State based upon complaints from students.
- 1.7 The States expanded their consumer protection investigations to include the marketing, originating and servicing of student loans for Silver State students, and the acquisition of such loans from originating lenders, including Liberty Bank.

- 1.8 Several of the States issued Civil Investigative Demands to SLX in order to review documents related to Silver State Loans. SLX cooperated with the States in their investigation by, among other things, providing numerous documents and data as well as making others available for inspection or review.
- 1.9 The investigation conducted by the States revealed that SLX engaged in certain acts, practices and omissions which the Attorneys General allege are in violation of their respective consumer protection laws and regulations promulgated thereunder.³ SLX denies all such allegations and contends that it complied with all laws and regulations in connection with the Silver State Loans.
- 1.10 The States have determined that it is in the public interest of their respective states and the student borrowers to enter into this Assurance at this time in order to conclude such review and inquiry.

TERMS OF ASSURANCE AS TO FUTURE CONDUCT

To address the States' concerns regarding the business practices of SLX, SLX and the States have entered into this Assurance and have agreed as follows:

- 2.1 The duties, responsibilities, burdens, and obligations undertaken in connection with this Assurance shall apply to SLX, its successors and assigns, and its officers and employees.
- 2.2 SLX shall comply with all applicable provisions of the Truth in Lending Act, 15 U.S.C. § 1601, et seq., and all applicable provisions of its promulgating Regulation Z, 12 C.F.R. Part 226, as such statutes and rules are currently promulgated or hereafter amended, in offering non-federally guaranteed education loans ("Private Loans").
- 2.3 SLX shall comply with all applicable provisions of the Federal Trade Commission's Trade Regulation Rules, 16 C.F.R. Subchapter D, and all applicable provisions of state

³ CALIFORNIA – *Business and Professions Code § 17200 and § 17500*; FLORIDA - *Deceptive and Unfair Trade Practices Act*, Fla. Stat. Ch. 501.201 et seq.; GEORGIA – *Georgia Fair Business Practices Act of 1975*, Ga. Code Ann. § 10-1-390, et seq.; IDAHO - *Consumer Protection Act*, Idaho Code Section 48-601 et seq.; ILLINOIS - *Consumer Fraud and Deceptive Business Practices Act*, 815 ILCS § 505/1 et seq. (2006 State Bar Edition); MISSOURI – *Merchandising Practices Act*, Section 407.010 et seq., RSMo.; MONTANA - Mont. Code Ann. § 30-14-101 et seq.; Practices Act” NMSA 1978, S 57-12-1 et seq.; NEVADA - *Deceptive Trade Practices Act*, Nevada Revised Statutes 598.0903 et seq.; OKLAHOMA – *Consumer Protection Act*, 22 O.S. § 751 et seq.; OREGON - *Unlawful Trade Practices Act*, ORS 646.605 to 646.656; et. seq.; UTAH – *Consumer Sales Practices Act*, Utah Code Ann. ** 13-11-1 through 13-11-22.; and WASHINGTON - *Consumer Protection Act*, R.C.W. 19.86 et seq.

statutes governing unfair, deceptive or misleading trade practices, as such statutes and rules are currently promulgated or hereafter amended, in offering Private Loans.

- 2.4 SLX shall comply with all applicable provisions of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692, et seq., and all applicable provisions of state statutes governing debt collection practices, as such statutes are currently promulgated or hereinafter amended, in the collection of debts incurred pursuant to Private Loans.
- 2.5 SLX shall not provide negative information to credit reporting agencies with respect to any Private Loan restructured in accordance with the debt forgiveness and restructuring provisions set forth herein, so long as the borrower makes timely payments and otherwise complies with all requirements of the Restructured Loan, as defined below.
- 2.6 SLX shall in good faith, and in a timely manner notify the appropriate credit reporting agency of any errors or mistakes in credit information which SLX provided to such credit reporting agency regarding persons who attended Silver State and whose Promissory Note is held by SLX as of the effective date of this Assurance, provided such errors or mistakes have been brought to the attention of SLX. The States acknowledge, however, that SLX does not have any control over or right to control the credit reporting agencies.
- 2.7 Where SLX acts as the preferred provider⁴ of Private Loans to students of a private post-secondary, trade or vocational institution not certified or accredited by state or federal authorities (an “Unaccredited Institution”), SLX shall make the following disclosure substantially in the form and manner indicated below, clearly and conspicuously in writing, to each applicant prior to extending a Private Loan:

NOTE: SLX’s provision of loans to students of [Name of Institution] does not constitute an endorsement of [Name of Institution], its principals, or the quality of the education or training offered; or an assurance of [Name of Institution’s] current or future financial viability.

Loan applicants are encouraged to conduct their own inquiries into all aspects of any school they are considering.

Regardless of whether the school fails, closes, or goes bankrupt after part or all of a student’s loan has been disbursed to the school on

⁴ SLX shall be considered a preferred provider of student loans if it either has an exclusive relationship with a school or it provides in excess of 75% of the student loans at a school.

behalf of the student, the student will still owe full repayment of the principal advanced plus, interest, and fees under the loan.

2.8 SLX shall provide the benefits set forth below to each person whose claims and potential claims against SLX, its predecessors, successors, assigns, officers, employees and agents relating to Silver State Loans are released by operation of law in connection with judicial approval of the proposed nationwide class action settlement in Holman et al. v. Student Loan Xpress, Inc., Case No. 08:CV-00-305-SDM-MAP, pending in the United States District Court for the Middle District of Florida (the "Proposed Class Action Settlement"). In the event that the Proposed Class Action Settlement does not reach its final effective date and is terminated (the "Termination of the Proposed Class Action Settlement"), SLX shall have the option, at its sole discretion, to provide the benefits described below to each person who (i) would otherwise have been eligible to participate in the Proposed Class Action Settlement; and (ii) provides SLX, within sixty (60) days following SLX's election of its option to provide such benefits in accordance with section 2.9 below, with a legally valid release, assignment of claims and transfer of claims (as well as other documents reasonably required by SLX to effectuate the legality of the release, assignment and transfer of claims) in accordance with the terms of the Proposed Class Action Settlement. A summary of the terms of the Proposed Class Action Settlement are annexed to this Assurance as Exhibit A. Such terms will be more fully described in the papers submitted in connection with the judicial approval process of the Proposed Class Action Settlement. Each person who becomes eligible for the benefits set forth below shall be referred to herein as a "Participant."

a. Debt Restructuring and Forgiveness. SLX shall provide each Participant with forgiveness of the principal amount of each Participant's Loan, including any origination fees and capitalized interest as of February 4, 2008 and all uncapitalized interest that had accrued on such principal as of February 4, 2008 (the "Debt"), and shall restructure the Participant's Debt as follows:

0 FAA Certifications – 75% forgiveness;

1 FAA Certification – 60% forgiveness;

2 FAA Certifications – 47.5% forgiveness;

3 FAA Certifications – 30% forgiveness;

4 FAA Certifications – 20% forgiveness.

- b. Ten percent of the above forgiveness percentages shall be irrevocably earned by a Participant upon the Participant's execution of the release, assignment of claims and transfer of claims, and other reasonably required documents as set forth above. The remaining forgiveness shall become effective only upon the Participant's timely and full repayment of the Restructured Loan, as defined below, and shall be conditioned upon timely and full repayment of the Restructured Loan. Repayment of the Restructured Debt shall be deemed timely and full only if the Participant makes all scheduled payments, including interest and principal payments, within 90 days of the scheduled due date of each such payment until such time that the Restructured Loan has been paid in full.
- c. Where a Participant makes timely and full repayment of the Restructured Loan, plus any interest accruing thereon, within the earlier of five (5) years of (i) the final effective date of the Proposed Class Action Settlement, (ii) a date that is sixty (60) days after the court grants final approval of the Proposed Class Action Settlement, or (iii) the Effective Date of the Assurance, SLX shall forgive an additional 2.5% of the Participant's Restructured Debt and the Participant shall be credited or paid such amount.
- d. Reduction in Interest. Interest shall not accrue on Participants' Loans from the date that Silver State filed for bankruptcy (February 4, 2008) to the earlier of (i) the final effective date of the Proposed Class Action Settlement, (ii) sixty (60) days after the date on which the court grants final approval of the Proposed Class Action Settlement or (iii) the date of Termination of the Proposed Class Action Settlement (the "Interest Re-Accrual Date").
- e. Beginning on the Interest Re-Accrual Date, interest will accrue on a Participant's Restructured Loan at a rate which is three percent (3%) lower than the rate that would be in effect for such period under the terms of the Participant's Loan, provided, however, the interest rate applicable during any time period will never be reduced below six percent (6%).

- f. Restructured Loan. The “Restructured Loan” is the Debt of each Participant (i) reduced by ten percent of the debt forgiveness percentages set forth above; (ii) conditionally restructured in accordance with the additional debt forgiveness that will become effective upon timely and full repayment of the Restructured Loan; and (iii) less any payments made prior to the earlier of the final approval of the Proposed Class Action Settlement or the Effective Date of the Assurance.
- 2.9 Effective Date of this Assurance. The terms of this Assurance shall become binding and effective only upon (i) execution of the Assurance by all parties; (ii) filing and/or judicial approval of the Assurance in such States for which filing or judicial approval is required by law; *and* (iii) either: (a) the Proposed Class Action Settlement reaching its final effective date; or (b) the date on which SLX exercises its option to provide the benefits set forth above after Termination of the Proposed Class Action Settlement (the “Effective Date of the Assurance”). SLX shall be deemed to have exercised its option to provide the benefits set forth above by providing written notice to the States within 120 days of the date of Termination of the Proposed Class Action Settlement.

PAYMENT TO THE STATES

- 3.1 Within thirty (30) days of the Effective Date of this Assurance, SLX shall pay the sum of one hundred twenty five thousand dollars (\$125,000.00) to the Office of the Florida Attorney General, Department of Legal Affairs Revolving Escrow Trust Fund for the benefit of the States. Such sum is to be divided among the Attorneys General as they may agree. The payment may be used by the Attorneys General for attorneys' fees and other costs of investigation and litigation and/or for future public protection purposes, or be placed in, or applied to, the consumer protection enforcement fund, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of each signatory Attorney General.

GENERAL PROVISIONS

- 4.1 SLX and the States agree that this Assurance constitutes a legally enforceable agreement. This Assurance and the rights and obligations of the parties hereunder shall be governed within each of the respective States by the laws of such States in which any enforcement of this Assurance or any action to determine the rights and obligations hereunder is attempted.
- 4.2 Enforceable By Parties Only. This Assurance may be enforced only by the parties hereto. Nothing in this Assurance shall provide any rights to or permit any person or entity not a party hereto, including any state or attorney general not a party hereto, to enforce any provision of this Assurance. No person or entity not a signatory hereto is a third-party beneficiary of this Assurance. Nothing in this Assurance shall be construed to affect, limit, alter, or assist any private right of action that a consumer or other third party may hold against SLX.
- 4.3 This Assurance shall be binding on SLX, its successors and assigns, and its officers and employees.

- 4.4 Modifications or Amendments. To seek a modification or termination of this Assurance for any reason, SLX shall send a written request to the respective Attorney General. The Attorney General receiving the request shall make a good faith evaluation of the then existing circumstances, and after collecting information he or she deems necessary, make a prompt decision as to whether to agree to the modification or termination of this Assurance. In the event the respective Attorney General denies the modification or termination request, SLX reserves all rights to pursue any legal or equitable remedies that may be available to it. In states where this Assurance is filed with a court, no waiver, modification or amendment of the terms of this Assurance shall be valid or binding unless made by order of the court.
- 4.5 Monitoring. Upon the written request of the Attorneys General, SLX agrees to provide responsive, non-privileged information, books, records, documents, or testimony (formal or informal) to the Attorneys General for the purpose of monitoring SLX's compliance with this Assurance. SLX shall make the requested information available, within sixty (60) calendar days of the request, at the office of the designated representative Attorney General, or at such other time and/or place as is mutually agreed to in writing by SLX and the requesting Attorneys General. This section shall in no way limit (1) any right of the Attorneys General to obtain documents, records, testimony, or other information pursuant to any law, regulation, or rule, or (2) the effect of the provisions set forth elsewhere in this Assurance.
- 4.6 Conflicts. Nothing in this Assurance shall be construed as preventing or exempting SLX from complying with any law, rule, or regulation, nor shall any of the provisions of this Assurance be deemed to authorize or require SLX to engage in any acts or practices prohibited by such law, rule, or regulation.
- 4.7 Preservation of Authority. Nothing in this Assurance shall be construed to limit the authority of the Attorneys General to protect the interests of their respective states or the people of their respective states; provided, however, the Attorneys General agree that this Assurance is sufficient to protect those interests as they relate to the subject matter of this Assurance and as to the claims released herein and that nothing in this sentence shall be interpreted to limit the provisions of section 5.1. This Assurance shall not bar the

Attorneys General or any other governmental entity from enforcing laws, regulations, or rules against SLX for conduct subsequent to or otherwise not covered by section 5.1.

- 4.8 No Admissions; No Penalty. This Assurance is not intended to be and shall not in any event be construed or deemed to be, or represented or caused to be represented as, an admission or concession or evidence of any liability or wrongdoing whatsoever on the part of SLX or its predecessors, successors, assigns, officers, employees or agents, or of any fact or any violation of any law, rule, or regulation. This Assurance is made without trial or adjudication of any alleged issue of fact or law and without any finding of liability of any kind. The payment made pursuant to section 3.1 does not constitute, and shall not be construed as, a penalty of any kind.
- 4.9 Non-Admissibility. The settlement negotiations resulting in this Assurance have been undertaken by SLX and the Attorneys General in good faith and for settlement purposes only, and no evidence of negotiations or communications underlying this Assurance shall be offered or received in evidence in any action or proceeding for any purpose. Neither this Assurance nor any public discussions, statements, or comments with respect to this Assurance by the Attorneys General or SLX shall be offered or received in evidence in any action or proceeding for any purpose other than in an action or proceeding between the parties arising under this Assurance.
- 4.10 Entire Agreement. This Assurance is entered into by the parties as their own free and voluntary act and with full knowledge and understanding of the nature of the proceedings and the obligations and duties imposed by this Assurance. This Assurance sets forth the entire agreement between the parties. There are no representations, agreements, arrangements, or understandings, oral or written, between the parties relating to the subject matter of this Assurance that are not fully expressed herein or attached hereto.
- 4.11 Counterparts. This Assurance may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall together constitute one and the same instrument.
- 4.12 Mutually Drafted. This Assurance shall be deemed to have been mutually drafted by SLX and the Attorneys General and shall not be construed against either party as the author thereof.

- 4.13 Titles and Headers. The titles and headers in this Assurance are for convenience purposes only and are not intended by the parties to lend meaning to the actual provisions of the document.
- 4.14 The acceptance of this Assurance by the Attorneys General shall not be deemed approval by the Attorneys General of any of Respondent's business practices, except those mandated herein. Further, neither Respondent nor anyone acting on its behalf shall state or cause to be stated that the Attorneys General, or any other governmental unit, have approved, sanctioned or authorized any practice, act, representation, or conduct of Respondent, except those mandated herein.
- 4.15 The Respondent agrees that the States shall have the authority to enforce or seek sanctions for violations of the provisions of the Assurance in the duly constituted courts of the States, and evidence of a violation of this Assurance shall constitute prima facie evidence of an act or practice in violation of the consumer protection laws of the States.
- 4.16 Nothing contained herein shall be construed to waive any individual right of action by any consumer, nor will it be construed as a waiver by the Respondent of any legal right in connection with any action brought by any person or entity not a signatory to this Agreement.

RELEASE

- 5.1 This Assurance shall constitute a release of the Respondent, Education Funding Resources, LLC ("EFR"), Fifth Third Bank as Eligible Lender Trustee for the Respondent and EFR, respectively, American Education Services / Pennsylvania Higher Education Assistance Agency, Inc., Liberty Bank, N.A, Lutheran Education Assistance Resource Network, and each of their respective officers, directors, employees and agents from liability, to the extent they can be held liable for the Respondent's conduct in connection with Silver State Loans; and a resolution of all actual or potential civil claims, causes of action, damages, fines, costs or penalties that were or could have been asserted at any time up to and including the Effective Date of the Assurance by the States for alleged violations of the States' consumer protection laws cited in footnote two herein and rules or regulations promulgated thereunder; as well as all laws enforced by the

consumer protection divisions of the States Attorneys General offices that are based upon the Respondent's conduct in connection with Silver State Loans.

- 5.2 Notwithstanding the foregoing, a State may institute an action or proceeding to enforce the terms and provisions of this Assurance. Prior to seeking enforcement of this Assurance, its Attorney General shall contact the Respondent and provide a written notification of the alleged violations and shall provide the Respondent reasonable opportunity to attempt to resolve the State's concerns. If a mutually acceptable resolution is not reached, the Attorney General agrees to provide the Respondent thirty (30) days advance written notice prior to instituting any proceedings alleging a violation of this Assurance. Such notification shall be transmitted by facsimile or electronic mail and by overnight mail to counsel for the Respondent at:

Student Loan Xpress, Inc.
c/o CIT Group Inc.
1 CIT Drive, 3rd Floor
Livingston, NJ 07039-5703
Attention: Deborah A. Reperowitz, Esq.
Email: deborah.reperowitz@cit.com
Fax: (973) 740-5595
Telephone: (973) 535-3586

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005
Attention: Andrew E. Tomback, Esq.
Email: atomback@milbank.com
Fax: (212) 822-5971
Telephone: (212) 530-5971

Milbank, Tweed, Hadley & McCloy LLP
1 Chase Manhattan Plaza
New York, NY 10005
Attention: Grace M. Gilligan, Esq.
Email: ggilligan@milbank.com
Fax: (212) 822-5437
Telephone: (212) 530-5437

IN WITNESS WHEREOF, SLX and the States, through their fully authorized representatives,
have agreed to this Assurance:

Student Loan Xpress, Inc.

By: _____
Name: _____
Title: _____
Date: _____

Counsel for Student Loan Xpress, Inc.

By: _____
Name: _____
Title: _____
Date: _____

Office of the California Attorney General,

By: _____

Name: _____

Title: _____

Date: _____

Office of the Florida Attorney General,

By: _____

Name: _____

Title: _____

Date: _____

Georgia Governor's Office of Consumer Affairs,

By: _____

Name: _____

Title: _____

Date: _____

Office of the Idaho Attorney General

By: _____

Name: _____

Title: _____

Date: _____

Office of the Illinois Attorney General

By: _____

Name: _____

Title: _____

Date: _____

Office of the Missouri Attorney General

By: _____

Name: _____

Title: _____

Date: _____

Office of the Montana Attorney General

By: _____

Name: _____

Title: _____

Date: _____

Office of the Nevada Attorney General

By: _____

Name: _____

Title: _____

Date: _____

Office of the Oklahoma Attorney General

By: _____

Name: _____

Title: _____

Date: _____

Office of the Oregon Attorney General

By: _____

Name: _____

Title: _____

Date: _____

State of Utah, Division of Consumer Protection

By: _____

Name: _____

Title: _____

Date: _____

Office of Washington the Attorney General

By: _____

Name: _____

Title: _____

Date: _____