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This Instrument Prepared By and After  
Recording Shall be Returned To:  
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[SPACE ABOVE THE LINE FOR RECORDING PURPOSES ONLY]

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**DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING**

Date: August 26, 2016

Grantor: **SOUTH TEXAS EDUCATIONAL TECHNOLOGIES, INC.**  
519 S. Texas Boulevard  
Weslaco, Texas 78596

Grantee: **REGIONS BANK**  
1717 McKinney Avenue, Suite 1100  
Dallas, Texas 75202

Legal Description: As set forth on Exhibit A of the attached Deed of Trust, Assignment of Leases, Security Agreement, and Fixture Filing.

THIS DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING SECURES, AMONG OTHER THINGS, FUTURE ADVANCES AND FUTURE OBLIGATIONS AND IS A DEED OF TRUST GOVERNED BY THE TEXAS PROPERTY CODE, AN ASSIGNMENT OF LEASES AND RENTS, AND A FINANCING STATEMENT AND FIXTURE FILING GOVERNED BY ARTICLE 9 OF THE TEXAS BUSINESS AND COMMERCE CODE. THE FACE AMOUNT OF THIS MORTGAGE IS \$ \_\_\_\_\_ .00 THE INDEBTEDNESS SECURED HEREBY SHALL HAVE A SCHEDULED MATURITY DATE OF **NOVEMBER 26, 2025.**

## DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING

**THIS DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING** (this "Mortgage") is made and entered into as of August 26, 2016, by **SOUTH TEXAS EDUCATIONAL TECHNOLOGIES, INC.**, a Texas nonprofit corporation (the "Grantor"), whose address is 519 S. Texas Boulevard, Weslaco, Texas 78596, in favor of TOM COBURN, Trustee (the "Trustee") for the use and benefit of **REGIONS BANK**, an Alabama corporation (the "Beneficiary"), whose address is 1717 McKinney Avenue, Suite 1100, Dallas, Texas 75202.

### Recitals

Pursuant to Chapter 53 of the Texas Education Code the "Enabling Law"), the Grantor and Crawford Education Facilities Corporation (the "Issuer"), will deliver a Financing and Loan Agreement of even date herewith (the "Financing and Loan Agreement") to finance, or refinance indebtedness previously incurred to finance, educational facilities under the Enabling Law, as more particularly described therein (collectively the "Project"), for use by the Grantor. The Grantor will also execute and deliver that certain Guaranty Agreement of even date herewith (the "Guaranty") in favor of Beneficiary. The tax exempt indebtedness advanced pursuant to that certain Financing and Loan Agreement shall be memorialized by the execution and delivery of that Special Project Revenue Note (the "Project Obligation") referenced in the Financing and Loan Agreement.

The Grantor and Beneficiary will also simultaneously deliver a Credit Agreement of even date herewith (the "Credit Agreement") to finance, or refinance indebtedness previously incurred to finance, educational facilities as more particularly described therein for use by the Grantor. The indebtedness advanced pursuant to that certain Credit Agreement shall be memorialized by the execution and delivery of that [\$150,000] Taxable Promissory Note, Series 2016-B (the "Taxable Obligation") referenced in the Credit Agreement.

This Mortgage is a future advance mortgage and a portion of the Obligation is to be advanced by the Beneficiary to the Grantor in accordance with the terms of the Credit Agreement. This instrument is given to secure not only the existing Obligation, but also future advances made pursuant to this Mortgage, the Obligation, the Credit Agreement, any notes representing any portion of the Obligation, any loan agreement or other instrument evidencing or securing the Obligation or as requested by Beneficiary, whether such advances are obligatory or are to be made at the option of Regions Bank, or otherwise, as are made within ten (10) years from the date hereof, to the Grantor, to the same extent as if such future advances were made on the date of the execution of this instrument. The total amount of indebtedness that may be so secured hereby may decrease or increase from time to time.

For Value Received, in consideration of, and in satisfaction of certain conditions of the Beneficiary precedent to, the delivery of the Credit Agreement by the Beneficiary and the advance of funds thereunder for the benefit of the Grantor, the Grantor has delivered this Mortgage simultaneously with the delivery of the Credit Agreement intending to be legally bound hereby.

### Agreement

NOW, THEREFORE, in consideration of the foregoing recitals and to induce the Beneficiary to enter into the Credit Agreement, and to secure the prompt payment of all amounts due under the Credit Agreement and this Mortgage, and also to secure the full and complete performance of each and every obligation, covenant, duty and agreement of the Grantor contained in this Mortgage and the Credit Agreement, the Grantor agrees as follows:

## ARTICLE I

### **Definitions and Other Provisions of General Application**

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

(1) Capitalized terms used herein without definition shall have the respective meanings assigned thereto in the Credit Agreement.

(2) The terms defined in this Article have the meanings assigned to them in this Article. Singular terms shall include the plural as well as the singular and vice versa and words connoting one gender shall refer to all genders.

(3) All references in this instrument to designated “articles”, “sections” and other subdivisions are to the designated articles, sections and subdivisions of this instrument as originally executed.

(4) References to a statute shall refer to the statute and any successor statute, and to all regulations promulgated under or implementing the statute or successor, as in effect at the relevant time.

(5) “Including” means “including, but not limited to.”

(6) Actions permitted under this Mortgage may be taken at any time and from time to time in the actor’s sole discretion.

(7) The terms “herein”, “hereof” and “hereunder” and other words of similar import refer to this Mortgage as a whole and not to any particular article, section or other subdivision.

**Collateral** shall mean all property and rights mortgaged, assigned, pledged or otherwise subject to the lien of this Mortgage.

**Condemnation Awards** shall have the meaning stated in the **third Granting Clause of Section 2.01**.

**Environmental Law** shall mean and include all laws, rules, regulations, ordinances, judgments, decrees, codes, orders, injunctions, notices and demand letters of any Governmental Authority applicable to the Grantor or the Project Site (including the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601, et seq.) relating to Hazardous Substances and the protection of human health or the environment, including any relating to Hazardous Substances.

**Event of Default** shall have the meanings stated in **Article VII**. An Event of Default shall “exist” if an Event of Default shall have occurred and be continuing.

**Credit Agreement** shall mean that certain Credit Agreement dated the date thereof among the Grantor and the Beneficiary, including any amendments or supplements to such instrument entered into pursuant to the applicable provisions thereof.

**Financing Documents** shall mean collectively the following documents as at any time amended, restated or supplemented:

- (i) the Financing and Loan Agreement,
- (ii) the Credit Agreement,
- (iii) the Project Obligation,
- (iv) the Taxable Obligation,

- (v) this Mortgage,
- (vi) the Master Trust Indenture, and
- (vii) the MTI Notes.

**Governmental Authority** shall mean any federal, state, county, municipal, or other government, domestic or foreign, and any agency, authority, department, commission, bureau, board, court or other instrumentality thereof with jurisdiction over the subject matter.

**Hazardous Substances** shall mean and include all pollutants, contaminants, toxic or hazardous wastes and other substances (including asbestos, urea formaldehyde, foam insulation and materials containing either petroleum or any of the substances referenced in Section 101(14) of CERCLA), the removal of which is required or the manufacture, use, maintenance and handling of which is regulated, restricted, prohibited or penalized by an Environmental Law.

**Hedge Agreement** shall mean an agreement (including terms and conditions incorporated by reference therein and all schedules thereto and confirmations thereof) in any notional principal amount (which notional amount may reduce periodically under the agreement) from time to time and at any time executed and delivered by the Grantor and the Beneficiary: (a) which provides for an interest rate, currency, equity, credit or commodity swap, cap, floor or collar, spot or foreign exchange transaction, cross-currency rate swap, currency option, any combination thereof, or option with respect to, any of the foregoing or any similar transactions, for the purpose of hedging the Grantor's exposures to fluctuations in interest rates, exchange rates, currency, stock, portfolio or loan valuations or commodity prices (including any such or similar agreement or transaction entered into by the Beneficiary in connection with any other agreement or transaction between the Grantor and the Beneficiary and (b) a master agreement for any of the foregoing agreements referenced in (a) together with all supplements.

**Leases** shall have the meaning stated in the **fifth Granting Clause of Section 2.01**.

**Master Trust Indenture** refers to that certain Master Trust Indenture and Security Agreement dated as of August 26, 2016, between Grantor and Regions Bank, as trustee, which amends and restates that certain Master Trust Indenture and Security Agreement dated December 22, 2011, between Grantor and Wells Fargo Bank, N.A., as trustee.

**Mortgage** shall mean this instrument as originally executed or as it may from time to time be supplemented, modified or amended by one or more instruments entered into pursuant to the applicable provisions hereof.

**MTI Notes** collectively refers to that certain \$1,745,000 MTI Promissory Note, Series 2016-A, executed by Grantor in favor of Regions Bank, as trustee, and that certain [\$150,000]Taxable MTI Promissory Note, Series 2016-B, executed by Grantor in favor of Regions Bank, in its capacity as trustee, under that certain Master Trust Indenture.

**Project Obligation** shall have the meaning ascribed to it in the Recitals.

**Obligations** shall mean:

- (1) all amounts becoming due and payable under the MTI Notes, Project Obligation, Taxable Obligation, and other Financing Documents in accordance with the terms thereof;
- (2) all amounts becoming due on any of the other Outstanding Parity Obligations;
- (3) all other amounts becoming due and payable under the Credit Agreement;
- (4) all amounts becoming due and payable by any Obligor under or with respect to any Hedge Agreement;

(5) all amounts becoming due and payable by any Obligor under the terms of this Mortgage (including but not limited to amounts due under **Section 4.07** of this Mortgage and reimbursement for advancements made by the Beneficiary under this Mortgage) and any other security agreements, guarantees, mortgages or other documents now or hereafter evidencing or securing the obligations of the Obligors under the Financing Documents;

(6) all other indebtedness, obligations (including obligations of performance) and liabilities of any Obligor to the Beneficiary or Regions Equipment Finance Corporation of every kind and description whatsoever, direct or indirect, absolute or contingent, due or to become due, now existing or hereafter incurred, contracted or arising, or acquired by the Beneficiary or Regions Equipment Finance Corporation from any source, joint or several, liquidated or unliquidated, regardless of how they arise or by what agreement or instrument there may be evidenced or whether they are evidenced by any agreement or instrument, and whether incurred as maker, endorser, surety, Grantor or otherwise, and any and all extensions, restatements and renewals of any of the same; and

(7) all renewals and extensions of any or all the obligations of the Obligor described in **paragraphs (1) through (6) above**, whether or not any renewal or extension agreement is executed in connection therewith.

**Obligor** or **Obligors** shall mean the Grantor and any of its successors collectively, and individually, an “Obligor”.

**Outstanding Parity Obligations** shall collectively refer to that certain Taxable Education Revenue Bond, Series 2014, issued by the Texas Public Finance Authority Charter School Finance Corporation (South Texas Educational Technologies, Inc. Qualified School Construction Bond – Direct Pay Project) dated December 30, 2014, issued in the original principal amount of \$4,600,000, and that certain Promissory Note, Series 2015-A, dated December 18, 2015, issued by the Borrower in favor of Lender, issued in the original principal amount of \$293,250.

**Permitted Encumbrances** shall mean restrictions, exceptions, reservations, conditions, limitations, interests and other matters appearing of public record prior to the recordation of this Mortgage, and the liens evidencing the seller-financing applicable to the Project Site.

**Person** shall include natural persons, sole proprietorships, corporations (which shall be deemed to include business trusts), unincorporated organizations, associations, companies, institutions, entities, joint ventures, partnerships, governments (whether national, federal, state, county, city, municipal or otherwise) and any governmental instrumentality, division, agency, body or department.

**Personal Property and Fixtures** shall mean all Collateral which constitutes personal property, fixtures and other property.

**Project** shall mean the Project Site, the Personal Property and Fixtures and all other property and rights referred to or intended so to be in **Granting Clauses I and II**.

**Project Site** shall have the meaning stated in the **first Granting Clause** of **Section 2.01**.

**Rents** shall have the meaning stated in the **fifth Granting Clause** of **Section 2.01**.

**Special Funds** shall mean all funds and accounts established pursuant to the Credit Agreement.

**Taxable Obligation** shall refer to the [\$150,000] maximum principal amount Taxable Promissory Note, Series 2016-B, executed by Grantor for the benefit of Beneficiary pursuant to the Credit Agreement.

**Texas Business and Commerce Code** refers to the Business and Commerce Code codified under Texas law as the Uniform Commercial Code and the additional statutes, regulations and rulings thereunder referred to as the Business and Commerce Code.

## ARTICLE II

### Granting Clauses

#### **SECTION 2.01**            **Property Mortgaged**

As security for the Obligations and in consideration of the debt and trust hereinafter described, and other good and valuable consideration to it paid or provided by the Beneficiary, receipt of which is hereby acknowledged, Grantor has bargained and sold and does hereby GRANT, BARGAIN AND SELL, CONVEY AND CONFIRM unto the Trustee, and Trustee's successors in trust and its assigns, forever, with power of sale, all and singular, the property and interests in property described in the following Granting Clauses, and the Grantor has granted and does hereby GRANT A SECURITY INTEREST to the Beneficiary and the Trustee in said property and interests in property and all proceeds and products thereof:

#### I.

(Project Site and Buildings)

The real property described on Exhibit A attached hereto and interests therein, together with all easements, permits, licenses, rights-of-way, contracts, leases, tenements, hereditaments, appurtenances, rights, privileges and immunities pertaining or applicable to said real property and interests therein, together with all buildings, structures and improvements now or hereafter located on such real property (the "Project Site").

#### II.

(Personal Property and Fixtures)

All personal property and fixtures described in Exhibit B attached hereto and all other personal property and fixtures located on the Project Site in which the Grantor has any interest, including all substitutions and replacements for such personal property and fixtures and the proceeds thereof.

#### III.

(Condemnation Awards and Insurance Proceeds)

Subject to the provisions hereof respecting application of the following for the purposes and on the terms and conditions set forth herein: (i) all awards or payments, including all interest thereon, together with the right to receive the same, that may be made to the Grantor with respect to the Collateral as a result of the exercise of the right of eminent domain, any damage to or destruction of the Collateral or any part thereof, or any other injury to or decrease in the value of the Collateral (herein referred to as "Condemnation Awards"), and (ii) all right, title and interest of the Grantor in and to any policies of insurance (and the proceeds thereof) with respect to any damage to or destruction of the Collateral.

IV.

(Special Funds)

Money and investments from time to time on deposit in, or forming a part of, the funds and accounts established under the Credit Agreement (herein referred to as the “Special Funds”), subject to the prior lien of the Credit Agreement with respect to the Special Funds and the provisions of the Credit Agreement permitting the application thereof for the purposes and on the terms and conditions set forth therein.

V.

(Leases and Rents)

(a) All written or oral leases or other agreements for the use or occupancy of all or any portion of the Collateral with respect to which the Grantor is the lessor and any and all extensions and renewals thereof, now or hereafter existing (collectively, the “Leases”), and all Rents related thereto;

(b) Any and all guaranties of performance by lessees under the Leases;

(c) The immediate and continuing right to collect and receive all the rents, income, receipts, revenues, issues and profits now due or that may hereafter become due or to which the Grantor may now be or may hereafter (including during the period of redemption, if any) become entitled to demand or claim, arising or issuing from or out of the Leases or from or out of the Collateral, or any part thereof, including but not limited to minimum rents, additional rents, percentage rents, common area maintenance charges, parking charges, tax and insurance premium contributions, liquidated damages upon default, the premium payable by any lessee upon the exercise of any cancellation privilege provided for in any of the Leases, and all proceeds payable under any policy of insurance covering loss of rents resulting from untenability caused by destruction or damage to the Collateral, together with any and all rights and claims of any kind that the Grantor may have against any such lessee(s) under the Leases or against any sublessee or occupants of the Collateral, and all other funds received by the Grantor for any use, sale, or lease of all or any part of the Collateral, and all rights to receive the foregoing, including without limitation accounts and accounts receivable, all such moneys, rights and claims described in this **subparagraph (c)** being hereinafter referred to as the “Rents”; and

(d) Any award, dividend or other payment made hereafter to the Grantor in any court procedure involving any of the lessees under the Leases in any bankruptcy, insolvency or reorganization proceeding in any state or federal court and any and all payments made by lessees in lieu of rent, the Grantor hereby appointing the Beneficiary as the Grantor’s irrevocable attorney-in-fact to appear in any action and collect any such award, dividend or other payment.

VI.

(Other)

Any and all other real or personal property of every kind and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred to the Beneficiary as and for additional security hereunder by the Grantor or by anyone in the behalf of, or with the written consent of, the Grantor.

All of the property described in the foregoing **Granting Clauses I through VI**, both inclusive, is herein sometimes together referred to as the “Collateral.”

**SECTION 2.02                      Assignment of Leases and Rents**

The Grantor hereby absolutely and unconditionally assigns to the Beneficiary all its, right, title and interest in Leases and Rents, and the Grantor grants to the Beneficiary the right to enter upon and to take possession of all

and every part of the Collateral for the purpose of collecting the Rents and to let all or any part of the Collateral, and to apply the Rents, issues, and profits, after payment of all necessary charges and expenses, on account of the Obligations. This assignment is a present, absolute assignment, not an assignment for security purposes only, and will continue in effect until this Mortgage is released, provided, however, under a license granted by the Beneficiary to the Grantor hereby (but limited as provided in **Section 8.07** of this Mortgage) the Grantor shall have the right to collect, receive and retain the Rents, and to apply them to payments that become due under the Financing Documents, to other Obligations, and to the payment of taxes, assessments, sewer rents, utility charges and carrying charges becoming due with regard to the Collateral, but such license shall be revoked automatically upon any Event of Default.

## **SECTION 2.03                      Security Agreement**

This Mortgage, in addition to being a lien on real estate, also is a security agreement by and between the Grantor, as debtor, and the Beneficiary, as secured party, with respect to Leases and Rents and all Personal Property and Fixtures and this Mortgage creates and grants to the Beneficiary a first lien and security interest in all Leases, Rents and Personal Property and Fixtures (subject only to the Permitted Encumbrances) until the Obligations are paid in full. The Grantor hereby grants to the Beneficiary a security interest in all of the Leases, Rents and Personal Property and Fixtures as security for the payment and performance of the Obligations. Some of the items of the Collateral are goods that are or are to become fixtures related to the Project Site, and it is intended that as to those goods, this Mortgage shall be effective as a financing statement filed as a fixture filing from the date of its filing for record in the real estate records of the county in which the Project Site is situated. Information concerning the security interest created by this instrument may be obtained from the Beneficiary, as secured party, at the address of the Beneficiary stated on the recording information cover page attached to this Mortgage, and incorporated herein by this reference. The mailing address of the Grantor, as debtor, is as stated on the cover page. Upon the occurrence of any Event of Default, the Beneficiary will have all the rights and remedies of a secured party under the Texas Business and Commerce Code and any other applicable laws. This Mortgage constitutes a financing statement under the Texas Business and Commerce Code for purposes of perfecting the Beneficiary's interest in the Leases, Rents and Personal Property and Fixtures.

TO HAVE AND TO HOLD the Collateral, together with all the rights, privileges and appurtenances thereunto belonging, unto the Trustee, and its successors and assigns, in accordance with the provisions contained in this Mortgage;

SUBJECT, however, to Permitted Encumbrances.

NOW, THEREFORE, if the Grantor shall pay and perform the Obligations and shall comply with each and every agreement, condition and covenant contained and set forth in this Mortgage and in all the other Financing Documents, then this Mortgage shall be released, without warranty, at the request and cost of the Grantor.

## **ARTICLE III**

### **Representations and Warranties**

To induce the Beneficiary to enter into the Credit Agreement, the Grantor represents and warrants that:

(1) Valid Title and Related Warranties. The Grantor is lawfully seized of an indefeasible estate in fee simple in and to, and good title to, the Project Site; the Grantor has the valid and legal right to sell and mortgage the Collateral; the Collateral is subject to no liens, encumbrances or security interests other than Permitted Encumbrances; and the Grantor will forever warrant and defend the title to the Collateral unto the Beneficiary against the claims of all persons whomsoever, except those claiming under Permitted Encumbrances. It is expressly understood and agreed that, with respect to the Special Funds, the lien created by this Mortgage is junior and subordinate to the lien created by the Credit Agreement.

(2) Maintenance of Lien Priority. The Grantor shall take all steps necessary to preserve and protect the validity and priority of the liens on and security interests in the Collateral created hereby. The

Grantor shall execute, acknowledge and deliver such additional instruments as the Beneficiary may deem necessary in order to preserve, protect, continue, extend or maintain the lien and security interest created hereby as a lien on and security interest in the Collateral subject only to Permitted Encumbrances, except as otherwise permitted under the terms of this Mortgage. All costs and expenses incurred in connection with the protection, preservation, continuation, extension or maintaining of the liens and security interests hereby created shall be paid by the Grantor.

## **ARTICLE IV**

### **Covenants of Grantor**

#### **SECTION 4.01            Payment of Taxes and Other Assessments**

The Grantor will pay or cause to be paid all taxes, assessments and other governmental, municipal or other public dues, charges, fines or impositions imposed or levied upon the Collateral or on the interests created by this Mortgage or with respect to the filing of this Mortgage when and as the same become due and payable, and any tax or excise on rents or other tax, however described, assessed or levied by any state, federal or local taxing authority as a substitute, in whole or in part, for taxes assessed or imposed on the Collateral or on the lien and other interests created by this Mortgage when and as the same become due and payable, and the Grantor will deliver receipts therefor to the Beneficiary or, in the case of mortgage filing privilege taxes, pay to the Beneficiary an amount equal to the taxes. The Grantor may, at its own expense, in good faith contest any such taxes, assessments and other governmental charges and, in the event of any such contest, may permit the taxes, assessments and other governmental charges so contested to remain unpaid during the period of such contest and any appeal therefrom, provided that during such period enforcement of such contested items shall be effectively stayed. If any tax or assessment is levied, assessed or imposed by any governmental authority on the Beneficiary as a legal holder of any of the Obligations or any interest in this Mortgage (other than federal and state income taxes), then unless all such taxes and assessments are paid by the Grantor promptly after they become due and payable but in any event before they become delinquent (and in the opinion of counsel for the Beneficiary, such payment by the Grantor is lawful and does not place the Beneficiary in violation of any law), the Beneficiary may, at its option, following ten (10) days' written notice and opportunity to cure, declare the existence of an Event of Default under this Mortgage.

#### **SECTION 4.02            Insurance**

(a) The Grantor shall keep or cause to be kept the Collateral insured against loss or damage by fire, windstorm, extended coverage perils, vandalism, malicious mischief and such other hazards, casualties or other contingencies as from time to time may be reasonably required by the Beneficiary (including but not limited to builder's risk during the period of construction or repair of the Project), in such amounts, in such manner and in such companies as the Beneficiary may reasonably approve. All such policies shall name the Beneficiary as a named insured and provide that any losses payable thereunder with respect to the Collateral shall (pursuant to loss payable clauses, in form and content acceptable to the Beneficiary, to be attached to each policy) be payable to the Beneficiary, as a mortgagee, and provide that the insurance provided thereby, as to the interest of the Beneficiary, shall not be invalidated by any act or neglect of the Grantor, nor by the commencing of any proceedings by or against the Grantor in bankruptcy, insolvency, receivership or any other proceedings for the relief of a debtor, nor by any foreclosure, repossession or other proceedings relating to the property insured, nor by any occupation of such property or the use of such property for purposes more hazardous than permitted in the policy. The Grantor shall furnish to the Beneficiary insurance certificates, in form and substance satisfactory to the Beneficiary, evidencing compliance by the Grantor with the terms of this Section. The Grantor will cause each insurer under each of the policies to agree (either by endorsement upon such policy or by letter addressed to the Beneficiary) to give the Beneficiary at least 10 days' prior written notice of the cancellation of such policies in whole or in part or the lapse of any coverage thereunder. The Grantor agrees that it will not take any action or fail to take any action which action or inaction would result in the invalidation of any insurance policy required hereunder. The Grantor shall furnish to the Beneficiary evidence of the payment of such premiums as and when paid. In addition, if any portion of the Project Site is located in a designated flood plain, Grantor agrees to obtain and maintain adequate flood insurance, at the expense of Grantor, in an amount and covering said portion of Project Site as Beneficiary may require.

(b) Subject to the provisions below, the Project or any part thereof is damaged or destroyed by fire or other casualty, the Grantor shall, as promptly as practicable, repair, rebuild, restore or replace the property damaged or destroyed (herein referred to as the “Restoration Work”). If the amount of loss proceeds of insurance on the Project available to pay the costs of such Restoration Work is not sufficient for such purpose, the Grantor shall complete the Restoration Work at its own expense.

(c) If the loss proceeds from insurance payable with respect to any casualty are equal to or less than 15% of the value of the improved Project Site (as determined prior to said casualty), such loss proceeds shall be payable to the Grantor and shall be applied by the Grantor either to pay the costs of the Restoration Work or to redeem Project Obligations.

(d) If the loss proceeds from insurance payable with respect to any casualty are greater than 15% of the value of the improved Project Site (as determined prior to said casualty), such loss proceeds shall be paid to the Beneficiary and, after first applying such loss proceeds to the payment of all costs and expenses (including attorneys’ fees) reasonably incurred in obtaining such loss proceeds, shall, be applied as follows:

(1) If no Event of Default shall have occurred and be continuing, such proceeds shall be held by the Beneficiary for the benefit of the Grantor and applied to such of the Restoration Work as is necessary to restore the Collateral to substantially the same condition, character and value thereof existing immediately prior to such casualty with such changes, modifications, and alterations as the Grantor may approve and as shall not impair the operating unity or productive capacity thereof, but only upon satisfaction of each of the following conditions:

(i) If the estimated costs of the Restoration Work (as reasonably estimated by an architect or engineer approved by the Beneficiary in the exercise of reasonable discretion) shall exceed the insurance proceeds available, the Grantor shall either deposit with the Beneficiary the amount of such deficit or furnish a satisfactory bond of completion or other evidence satisfactory to the Beneficiary of the Grantor’s ability to meet such excess costs;

(ii) The Beneficiary shall be furnished for its approval (not to be unreasonably withheld) (A) an estimate of the cost of Restoration Work, accompanied by the certification of the cognizant architect or engineer as to such costs and appropriate final plans and specifications for such restoration and (B) evidence that the Collateral to be so restored will, when completed, fully comply with all zoning, environmental, building laws, ordinances and regulations and other requirements of each Governmental Authority having jurisdiction;

(iii) Disbursement of the proceeds during the course of the Restoration Work shall be upon the certification of the cognizant architect or engineer as to the cost of materials furnished and work done and evidence that such work and materials are free and clear of liens; no payment made prior to the final completion of the work shall exceed ninety percent (90%) of the value of the work performed or materials furnished and incorporated into the structure from time to time; and at all times the undisbursed balance of said proceeds, together with all amounts deposited, bonded or otherwise funded pursuant to this **Section 4.02(d)**, shall be sufficient to pay for the cost of completion of the Restoration Work, free and clear of liens; and

(iv) Final payment shall be made upon receipt by the Beneficiary of a certification by the cognizant architect or engineer as to the completion substantially in accordance with the approved plans and specifications, the issuance of a permanent certificate of occupancy (or local equivalent), and receipt by the Beneficiary of proof, to the reasonable satisfaction of the Beneficiary, of final payment in full of all mechanics, materialmen or any other persons who have provided services in connection with the Restoration Work.

(2) If an Event of Default shall have occurred and be continuing, or if the foregoing conditions are not satisfied, then all insurance proceeds may be retained and applied by the Beneficiary toward payment of all or part of the Obligations in such order as the Beneficiary may determine. Any excess proceeds after completion of the Restoration Work shall be paid to or at the direction the Grantor.

(3) The architect or engineer referenced in this **Section 4.02(d)** may be independent or may (but is not required to) be employed by the Grantor or by any contractor for the Restoration Work, as determined by the Grantor and approved by the Beneficiary in the exercise of reasonable discretion.

**SECTION 4.03**                    **Condemnation Awards**

If the entire proceeds of any Condemnation Award are equal to or less than 15% of the value of the improved Project Site (as determined prior to any said threat of condemnation), and the Grantor is not in default under the Financing Documents, any such Condemnation Award shall be paid to Grantor. The entire proceeds of any Condemnation Award shall be paid to the Beneficiary and, after first applying such award to the payment of all costs and expenses (including attorneys' fees) reasonably incurred in the collection thereof, shall be applied as provided in **Section 4.02(d)** to the extent such Condemnation Award exceeds 15% of the original proceeds of the Project Obligations, or should an Event of Default then exist. No such application shall cure or waive any Event of Default of the Grantor.

**SECTION 4.04**                    **Waste, Demolition, Alteration or Replacement; Removal of Personal Property and Fixtures**

The Grantor will cause the Collateral and every part thereof to be maintained, preserved and kept in safe and good repair, working order and condition, will not commit or permit waste thereon, will not remove, demolish or materially alter the design or structural character of any building now or hereafter erected on the Project Site without the express prior written consent of the Beneficiary, will comply with all laws and regulations of any Governmental Authority with reference to the Collateral and the manner and use of the same, and will from time to time make all necessary and proper repairs, renewals, and restorations thereto so that the value and efficient use thereof shall be preserved and maintained. The Grantor agrees not to remove any of the Personal Property and Fixtures included in the Collateral unless the same is immediately replaced with like property of at least equal value and utility.

**SECTION 4.05**                    **Costs and Expenses**

The Grantor agrees to pay all fees and charges incurred in the procuring and making of this Mortgage or in the perfection of the lien and security interest of this Mortgage, including without limitation: fees and expenses relating to the examination of title to the Collateral; title insurance premiums, costs and expenses; surveys; mortgage recording, documentary, transfer, mortgage registration or similar fees or taxes; revenue stamps; architects' and engineers' services; and attorneys' fees. The Grantor further agrees to pay all and singular the costs, charges and expenses, including attorneys' fees and title examination and insurance costs, reasonably incurred or paid at any time by Beneficiary because of the failure of the Grantor to perform, comply with, and abide by each and every of the agreements, conditions and covenants of this Mortgage and of the other Financing Documents.

**SECTION 4.06**                    **Compliance by Grantor with Terms of Other Financing Documents**

The Grantor shall comply, fully and faithfully, with all of its respective obligations under the other Financing Documents. Except as otherwise provided in the Financing Documents, if the Grantor fails or refuses to do so, the Beneficiary may, but shall not be required to, perform any and all of such obligations of the Grantor under the other Financing Documents, including but not limited to the payment of any or all sums due from the Grantor thereunder. Any sums so paid by the Beneficiary shall constitute part of the Obligations and shall be secured hereby.

**SECTION 4.07**                    **Environmental Compliance and Indemnity**

(a) The Grantor shall (1) not, and shall not permit any other person to, bring any Hazardous Substances onto the Project Site except any such Hazardous Substances that are used in the ordinary course of the contemplated businesses as to be conducted on the Project Site and that are handled, stored, used and disposed of in accordance with applicable Environmental Laws; (2) if any other Hazardous Substances are brought or found on the Project Site, immediately remove and properly dispose of the same in accordance with applicable Environmental

Laws; (3) cause the Project Site and the operations conducted thereon (including all operations conducted thereon by other persons) to comply with all Environmental Laws; (4) permit the Beneficiary from time to time to inspect the Project Site and observe the operations thereon; (5) undertake any and all preventive, investigatory and remedial action (including emergency response, removal, clean up, containment and other remedial action) that is (A) required by any applicable Environmental Law or (B) necessary to prevent or minimize any property damage (including damage to any of the Project Site), personal injury, or harm to the environment, or the threat of any such damage or injury, by releases of or exposure to Hazardous Substances in connection with the Project Site or the operations on the Project Site; (6) give notice to the Beneficiary in writing if the Grantor should become aware of (A) any material spill, release or disposal of any Hazardous Substances, or imminent threat thereof, at the Project Site, in connection with the operations on the Project Site, or at any adjacent property that could migrate to, through or under the Project Site, (B) any material violation of Environmental Laws regarding the Project Site or operations on the Project Site, and (C) any material investigation, claim or threatened claim under any Environmental Law, or any notice of violation under any Environmental Law, involving the Grantor or the Project Site; and (7) deliver to the Beneficiary, at the Beneficiary's request, copies of any and all documents in the Grantor's possession or to which the Grantor has access relating to the matters identified in **Section 4.07(a)(6)**, including laboratory analyses, site assessments or studies, environmental audit reports and other environmental studies and reports.

(b) If the Beneficiary at any time reasonably believes that the Grantor is not complying with all applicable Environmental Laws or the requirements hereof regarding the same, or that a material spill, release or disposal of Hazardous Substances has occurred on or under the Project Site (provided, the Beneficiary shall have no duty whatsoever to monitor the Grantor's compliance with Environmental Laws), the Beneficiary may require the Grantor to furnish to the Beneficiary an environmental audit or site assessment reasonably satisfactory to the Beneficiary with respect to the matters of concern to the Beneficiary. Such audit or assessment shall be performed at the expense of the Grantor by a qualified consultant approved by the Beneficiary, which approval Beneficiary agrees not to unreasonably withhold.

(c) The Grantor hereby warrants that, to the best of the information, knowledge and belief thereof (1) there are no civil, criminal or administrative environmental proceedings involving the Project Site that are pending or to the Grantor's knowledge threatened; (2) the Grantor knows of no facts or circumstances that might give rise to such a proceeding with the passage of time; and (3) the Project Site is in compliance with all applicable federal, state and local statutory and regulatory environmental requirements.

(d) To the fullest extent permitted by law, the Grantor shall defend, indemnify and save harmless the Beneficiary from and against any and all liabilities, claims, causes of action, judgments, damages, fines, penalties, response costs, and other losses, costs and expense of any nature whatsoever, including reasonable attorneys' fees and costs of investigation and litigation, asserted against or suffered by the Beneficiary that are related to or arise out of or result from any violation of, or non-compliance of the Project Site with, Environmental Laws, or the presence of Hazardous Substances on or under or included in the Project Site during the time the Grantor has any interest in the Project Site and any investigation, clean up or removal of, or other remedial action or response costs with respect to, any Hazardous Substances located on or under or included in the Project Site, or any part thereof, during the time the Grantor has any interest in the Project Site or is otherwise in possession of the Project Site that may be required by any Environmental Law or Governmental Authority (specifically including without limitation any and all liabilities, damages, fines, penalties, response costs, investigatory or other costs pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Sections 9601 et seq.) and including claims alleging non-compliance with Environmental Laws which seek relief under or are based on state or common law theories such as trespass or nuisance.

(e) The provisions of this **Section 4.07** shall survive the payment of the Obligations in full and the termination, satisfaction, release (in whole or in part) and the foreclosure of this Mortgage and shall remain in full force and effect with respect to claims and losses asserted against or suffered by the Beneficiary until commencement of an action with respect to any such event or occurrence shall be prohibited by law.

## ARTICLE V

### Transfer of, or Liens on, Collateral

The Grantor covenants and agrees that, except as provided in the Credit Agreement, it will not, without the express prior written consent of the Beneficiary, sell, transfer, convey or otherwise dispose of, or create, or permit or suffer to exist, any lien, security interest or other encumbrance (other than Permitted Encumbrances and the continuing lien for ad valorem taxes not yet due and payable) on, all or any part of the Collateral (including any Leases and Rents) or any interests therein, it being expressly understood and agreed that a violation of the provisions of this **Article V** shall constitute an Event of Default under this Mortgage. Any sale, transfer, conveyance, other disposition or act of creating, permitting or suffering to exist any lien, security interest or other encumbrance in violation of this **Article V** shall be null, void and of no effect.

## ARTICLE VI

### Future Advances and Future Obligations

The Obligations include and this Mortgage secures future advances and future obligations made or incurred under the Financing Documents. The total amount of the Obligations may decrease or increase from time to time, but at no time shall the total principal amount of obligations and advances secured by this Mortgage, not including sums expended or incurred for the reasonable protection of the security interest created in the Collateral or for any other purposes specified in this Mortgage, exceed the face amount stated on the cover page of this Mortgage.

## ARTICLE VII

### Events of Default

Any one or more of the following shall constitute an event of default (an “Event of Default”) under this Mortgage (whatever the reason for such event and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any Governmental Authority):

- (1) default in the performance, or breach, of any material covenant, condition or agreement on the part of the Grantor contained in **Sections 4.01 or 4.02**; or
- (2) default in the performance, or breach, of any material covenant or warranty of the Grantor in this Mortgage (other than a covenant or warranty, a default in the performance or breach of which is elsewhere in this Section specifically described), and the continuance of such default or breach for a period of 30 days; or
- (3) the loss, theft, damage or destruction of any uninsured material portion of the Collateral, or the sale, transfer, pledge or encumbrance, of, or the making of any levy, seizure or attachment on, any material portion of the Collateral except in the ordinary course of business in connection with the replacement or sale of obsolete or worn out property; or
- (4) the filing or recording of any federal or other tax lien against any Obligor or against any of the Collateral after period of contest in good faith as provided herein; or
- (5) the interest of the Beneficiary in the Collateral shall become endangered by reason of the enforcement of any prior lien or encumbrance thereon (other than Permitted Encumbrances or the lien of the Credit Agreement with respect to the Special Funds) which lien or encumbrance is not covered by the provisions of the mortgagee’s title policy covering the Property issued for the benefit of Beneficiary or Regions Equipment Finance Corporation; or

(6) the lien or security interest created by this Mortgage is declared invalid or unenforceable as to any part of the Obligations or is declared invalid or unenforceable as to any part of the Collateral by a Governmental Authority, and application of the provisions of **Section 9.03** remain insufficient as to the balance of the unsecured portion of the Obligations; or

(7) the occurrence of an event of default under the Credit Agreement or under any other Financing Document and the expiration of the applicable grace period, if any, specified therein.

## **ARTICLE VIII**

### **Rights of Beneficiary Upon Default**

#### **SECTION 8.01            Acceleration of Indebtedness**

If an Event of Default exists, the Beneficiary, at its sole option, may by notice to the Grantor, effective upon dispatch, declare all of the Obligations (in the aggregate amount, to the extent, in the manner and with the effect all as provided in **Section 11.02** of the Financing and Loan Agreement and in **Section 8.01** of the Credit Agreement) to be forthwith due and payable, whereupon all the Obligations shall become and be forthwith due and payable in the amount in which the Obligations shall have become so due and payable under said **Section 11.02** of the Financing and Loan Agreement and **Section 8.01** of the Credit Agreement, without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived to the full extent permitted by law by the Grantor, and the Beneficiary may immediately enforce payment of all such amounts and exercise any or all of its rights and remedies under this Mortgage and the Financing Documents and available at law or equity.

#### **SECTION 8.02            Operation of Collateral by Beneficiary**

In addition to all other rights herein and in the Credit Agreement conferred on the Beneficiary, if an Event of Default exists, the Beneficiary (or any person, firm or corporation designated by the Beneficiary) may, but shall not be obligated to, enter upon and take possession of any or all of the Collateral, exclude the Grantor therefrom, and hold, use, administer, manage and operate the same to the extent that the Grantor could do so, without any liability to the Grantor resulting therefrom; and the Beneficiary may collect, receive and receipt for all proceeds accruing from such operation and management, make repairs and purchase needed additional property, and exercise every power, right and privilege of the Grantor with respect to the Collateral.

#### **SECTION 8.03            Judicial Proceedings; Right to Receiver**

If an Event of Default exists, the Beneficiary, in lieu of or in addition to exercising the power of sale hereinafter given, may proceed by suit for a foreclosure of its lien on and security interest in the Collateral, to sue the Grantor for damages on account of or arising out of said default or breach, or to sue the Grantor for specific performance of any provision contained herein, or to enforce any other appropriate legal or equitable right or remedy, whether under any of the other Financing Documents or otherwise. At any time during the continuance of any Event of Default, either before or after a foreclosure sale, the Beneficiary shall be entitled to apply to a court having jurisdiction, without notice and (to the extent permitted by law) without the requirement for a bond, without regard to the solvency or insolvency of any person liable for payment of the Obligations, and without regard to whether Beneficiary has exercised or is exercising any other available remedy, for the appointment, as a matter of strict right and as an admitted equity, for the appointment of a receiver for the benefit of Beneficiary, with power to collect the rents, issues, and profits of the Collateral, due and to become due, with power to lease and control the Collateral and with such other powers as may be deemed necessary. The appointment shall be made as a matter of strict right of the Beneficiary. The provisions for the appointment of a receiver and assignment of rents are express conditions upon which the financial accommodations to the Grantor have been made. The receiver, out of such rents, issues, and profits when collected, may pay all attorneys' fees and expenses; may pay all costs and operating expenses incurred in the management and operation of the Collateral; may pay and secure the release of prior or coordinate liens, if any; may pay taxes, assessments, water and other utility charges, and insurance premiums, may make and pay for any repairs to the Collateral deemed advisable to Beneficiary; and may pay all or any part of the

Obligations then due and payable or any deficiency arising from any foreclosure proceedings or otherwise as Beneficiary may direct, all in such order of application as Beneficiary may direct.

**SECTION 8.04                      Foreclosure Sale**

(a) To the fullest extent permitted by applicable law, at any time after an Event of Default has occurred, the Trustee may proceed to sell all or any part of the Collateral by judicial or statutory non-judicial foreclosure, at public venue, to the highest bidder, at the customary place in the county in which the Collateral is located, for cash (unless the winning bid is from the Beneficiary, who may bid either cash and/or a credit against the unpaid amount due on the Obligations), first giving the public notice required by law of the time, terms and place of sale, and of the property to be sold; and upon such sale shall execute and deliver a deed of conveyance of the property sold to the purchaser or purchasers thereof, and any statement or recital of fact in such deed in relation to the nonpayment of indebtedness secured, existence of the indebtedness secured, notice of advertisement, sale, receipt of money, and the happening of any of the events whereby any successor trustee became successor as provided in this Mortgage, shall be prima facie evidence of the truth of such statement or recital; and the Trustee shall receive the proceeds of such sale, and the Trustee covenants faithfully to perform the trust herein created.

(b) The Beneficiary, its successors and assigns, may bid at any sale or sales had under the terms of this Mortgage and may purchase the Collateral, or any part thereof, if the highest bidder therefor. The Beneficiary may bid a credit against the amount of all or part of the unpaid amount due on the Obligations as all or part of its bid. The purchaser at any such sale or sales shall be under no obligation to see to the proper application of the purchase money. At any foreclosure sale any part or all of the Collateral, real, personal or mixed, may be offered for sale in parcels or en masse for one total price, the proceeds of any such sale en masse to be accounted for in one account without distinction between the items included therein or without assigning to them any proportion of such proceeds, the Grantor hereby waiving the application of any doctrine of marshalling or like proceeding. If the Beneficiary, in the exercise of the power of sale herein given, elects to sell the Collateral in parts or parcels, sales thereof may be held from time to time, and the power of sale granted herein shall not be fully exercised until all of the Collateral not previously sold shall have been sold or all the Obligations shall have been paid in full. To the full extent permitted by law, the Grantor hereby waives any equitable rights otherwise available to it with respect to marshalling of assets hereunder, or to require the Beneficiary to exhaust its remedies against any Person.

(c) Until a sale shall be held hereunder, the Trustee hereby lets the Collateral to the Grantor upon the following terms and conditions: the Grantor, and any and all persons claiming or possessing the Collateral, and any part thereof, by, through, or under it shall pay rent therefor at the rate of one cent per month, payable monthly upon demand and shall surrender peaceable possession of the Collateral and any and every part thereof to the Trustee, any of its successors and assigns, or purchasers thereof, without notice or demand therefor, upon the occurrence of any Event of Default.

(d) The Beneficiary may at any time, in Beneficiary's discretion, by an instrument in writing executed and recorded according to law, appoint a successor trustee to act in place of the Trustee named in this Mortgage or a previously appointed successor trustee; and each such trustees shall succeed to the rights and powers of the Trustee named in this Mortgage. The Trustee or any successor trustee may resign by written notice delivered to the Beneficiary and shall have no liability for any actions occurring after the delivery of the notice.

(e) Nothing contained in this Section 8.04 shall negate or nullify a non-disturbance agreement entered into between the Beneficiary and one or more lessees under the Leases.

**SECTION 8.05                      Personal Property and Fixtures**

(a) The Beneficiary shall have and may exercise with respect to any or all of the Personal Property and Fixtures all rights, remedies and powers of a mortgagee under Texas law or a secured party under the Texas Business and Commerce Code with reference to the Personal Property and Fixtures or any other items in which a security interest has been granted herein, including the right and power to sell at public or private sale or sales or otherwise dispose of, lease or utilize the Personal Property and Fixtures and any part or parts thereof in any manner, to the fullest extent authorized or permitted under the Texas Business and Commerce Code after an Event of Default arises hereunder, without regard to preservation of the Personal Property and Fixtures or their value and without the

necessity of a court order. The Beneficiary shall have, among other rights, the right to take possession of the Personal Property and Fixtures and to enter upon any premises where the same may be situated for the purpose of repossessing the same without being guilty of trespass and without liability for damages occasioned thereby and to take any action deemed appropriate or desirable by the Beneficiary, at its option and in its sole discretion, to repair, restore or otherwise prepare the Personal Property and Fixtures for sale or lease or other use or disposition. To the extent permitted by law, the Grantor each expressly waives any notice of sale or any other disposition of the Personal Property and Fixtures and any rights or remedies of the Beneficiary with respect to, and the formalities prescribed by law relative to, the sale or disposition of the Personal Property and Fixtures or to the exercise of any other right or remedy of the Beneficiary existing after an Event of Default. To the extent that such notice is required and cannot be waived, the Grantor each agrees that if such notice is given to the Grantor in accordance with the provisions of **Section 9.07** below, at least ten days before the time of the sale or other disposition, such notice shall be deemed commercially and legally reasonable and shall fully satisfy any requirement for giving said notice.

(b) The Grantor agrees that the Beneficiary may sell or dispose of the Personal Property and Fixtures in accordance with the rights and remedies granted under this Mortgage with respect to the real property covered hereby. The Grantor hereby grants to the Beneficiary the right, to receive the monies, income, proceeds and benefits attributable to the Personal Property and Fixtures and to hold the same as additional Collateral or to apply it on the Obligations in such order and manner as the Beneficiary may elect. The Grantor covenants and agrees that all recitals in any instrument transferring, assigning, leasing or making other disposition of the Personal Property and Fixtures or any part thereof shall be full proof of the matters stated therein, and no other proof shall be required to establish the legal propriety of the sale or other action taken by the Beneficiary and that all prerequisites of sale shall be presumed conclusively to have been performed or to have occurred.

#### **SECTION 8.06                      Conveyance After Sale**

The Grantor hereby authorizes and empowers the Trustee, the Beneficiary or the auctioneer at any foreclosure sale had hereunder, for and in the name of the Grantor, to execute and deliver to the purchaser or purchasers of any of the Collateral sold at foreclosure good and sufficient deeds of conveyance or bills of sale thereto.

#### **SECTION 8.07                      Rents and Leases**

(a) If an Event of Default exists, the Beneficiary, at its option, shall have the right, power and authority to exercise and enforce any or all of the following rights and remedies with respect to Rents and Leases):

(1) to terminate the license granted to the Grantor in **Section 2.02** hereof to collect the Rents, and, without taking possession, in the Beneficiary's own name to demand, collect, receive, sue for, attach and levy the Rents, to give proper receipts, releases and acquittances therefor, and after deducting all necessary and reasonable costs and expenses of collection, including reasonable attorney's fees, to apply the net proceeds thereof to the Obligations in such order and amounts as the Beneficiary may choose (or hold the same in a reserve as security for the Obligations);

(2) without regard to the adequacy of the security, with or without any action or proceeding, through any person or by agent, or by a receiver to be appointed by court, to enter upon, take possession of, manage and operate the Collateral or any part thereof for the account of the Grantor, make, modify, enforce, cancel or accept surrender of any of the Leases, remove and evict any sublessee, increase or reduce rents, decorate, clean and make repairs, and otherwise do any act or incur any cost or expenses the Beneficiary shall deem proper to protect the security hereof, as fully and to the same extent as the Grantor could do if in possession, and in such event to apply any funds so collected to the operation and management of the Collateral (including payment of reasonable management, brokerage and attorney's fees) and payment of the Obligations in such order and amounts as the Beneficiary may choose (or hold the same in reserve as security for the Obligations);

(3) to take whatever legal proceedings may appear necessary or desirable to enforce any obligation or covenant or agreement of the Grantor under this Mortgage.

(b) The collection of the Rents and application thereof (or holding thereof in reserve) as aforesaid or the entry upon and taking possession of the Collateral or both shall not cure or waive any default or waive, modify or affect any notice of default under this Mortgage, or invalidate any act done pursuant to such notice, and the enforcement of such right or remedy by the Beneficiary, once exercised, shall continue for so long as the Beneficiary shall elect, until cure of the original default. If the Beneficiary shall thereafter elect to discontinue the exercise of any such right or remedy, the same or any other right or remedy hereunder may be reasserted at any time and from time to time following any subsequent default.

#### **SECTION 8.08                    Application of Proceeds**

All payments then held or thereafter received by the Beneficiary as proceeds of the Collateral, as well as any and all amounts realized by the Beneficiary in connection with the enforcement of any right or remedy under or with respect to this Mortgage, shall be applied by the Beneficiary as follows:

(1) to the payment of all costs and expenses of any kind then or thereafter at any time reasonably incurred by the Beneficiary in exercising its rights under this Mortgage and under the Financing Documents or otherwise reasonably incurred by the Beneficiary in collecting or enforcing payment of the Obligations;

(2) to the payment of the Obligations and any other amount then or thereafter at any time owing by the Grantor to the Beneficiary under the Credit Agreement or under this Mortgage or under the Covenant Agreement, all in such priority as among principal, interest, costs, fees, expenses and other amounts as the Beneficiary shall elect; and

(3) any balance remaining after payment in full of all amounts referred to in **paragraphs (1) and (2)** above shall be paid by the Beneficiary to the Grantor or to whomever else may then be legally entitled thereto.

#### **SECTION 8.09                    Multiple Sales**

The Beneficiary shall have the option to proceed with foreclosure, either through the courts or by proceeding with foreclosure as provided for in this Mortgage, but without declaring all of the Obligations due. Any such sale may be made subject to the unmatured part of the Obligations, and such sale, if so made, shall not in any manner affect the unmatured part of the Obligations, but as to such unmatured part of the Obligations this Mortgage shall remain in full force and effect as though no sale had been made under the provisions of this Section. Several sales may be made under the provisions of this Section without exhausting the right of sale for any remaining part of the Obligations whether then matured or unmatured, the purpose hereof being to provide for a foreclosure and sale of the Collateral for any matured part of the Obligations without exhausting any power of foreclosure and the power to sell the Collateral for any other part of the Obligations, whether matured at the time or subsequently maturing.

#### **SECTION 8.10                    Waivers**

To the full extent permitted by law, the Grantor waives and agrees not at any time to insist upon, plead, claim or take any benefit or advantage of any present or future laws providing for (i) any stay, extension of time or moratorium of enforcement of the rights granted by this Mortgage (commonly known as stay laws, whether under the bankruptcy code or otherwise), or (ii) any exemption from execution or sale of all or any part of the Collateral, or (iii) the valuation or appraisal of all or any part of the Collateral (commonly known as appraisal laws) before or after any sale or sales made pursuant to this Mortgage, or pursuant to the decree, judgment, or order of any court of competent jurisdiction, or (iv) any right under any statute to redeem all or any part of the property so sold. The Grantor, for itself and for those claiming under Grantor, waives to the full extent permitted by law (a) all rights and periods of redemption provided under Texas law, and all acts amendatory or in replacement thereof or supplemental thereto, and (b) all rights to have the Collateral or any other assets which secure the Obligations marshaled upon any foreclosure under this Mortgage.

## ARTICLE IX

### Provisions of General Application

#### **SECTION 9.01**            **Provisions Regarding Remedies**

(a) The exercise by the Beneficiary of any option given under the terms of this Mortgage shall not be considered as a waiver of the right to exercise any other option given herein, and the filing of a suit to foreclose the lien and security interest granted by this Mortgage, either on any matured portion of the Obligations or for the whole of the Obligations, shall not be considered an election so as to preclude foreclosure under power of sale after a dismissal of the suit; nor shall the publication of notices for foreclosure preclude the prosecution of a later suit thereon.

(b) No failure or delay on the part of the Beneficiary in exercising any right, power or remedy under this Mortgage shall operate as a waiver thereof, nor shall any single or partial exercise of any such right, power or remedy preclude any other or further exercise thereof or the exercise of any other right, power or remedy hereunder or thereunder.

(c) The remedies provided in this Mortgage and in the Credit Agreement are cumulative and not exclusive of any remedies provided by law.

(d) No amendment, modification, termination or waiver of any provisions of this Mortgage or the Credit Agreement, nor consent to any departure by the Grantor therefrom, shall be effective unless the same shall be in writing and signed by an executive officer of the Beneficiary, and then such waiver of consent shall be effective only in the specific instance and for the specific purpose for which given.

#### **SECTION 9.02**            **Enforceability**

If any provision of this Mortgage is now, or at any time hereafter becomes, invalid or unenforceable, all other provisions hereof shall remain in full force and effect and shall be construed in favor of the Beneficiary to effectuate the provisions hereof.

#### **SECTION 9.03**            **Application of Payments**

If the lien or the security interest created by this Mortgage is invalid or unenforceable as to any part of the Obligations or is invalid or unenforceable as to any part of the Collateral, the unsecured or partially secured portion of the Obligations shall be completely paid prior to the payment of the remaining and secured or partially secured portion of the Obligations, and all payments made on the Obligations, whether voluntary or under foreclosure or other enforcement action or procedures, shall be considered to have been first paid on and applied to the full payment of that portion of the Obligations that is not secured or not fully secured by the lien or security interest created hereby.

#### **SECTION 9.04**            **Advances by Beneficiary**

If the Grantor shall fail to comply with the provisions hereof with respect to the securing of insurance, the payment of taxes, assessments and other charges, the keeping of the Collateral in repair, or any other term or covenant herein contained, the Beneficiary may (but shall not be required to) make advances to effect performance of the same, and where necessary enter or take possession of the Collateral for the purpose of performing any such term or covenant. The Grantor agrees to repay all sums advanced upon demand, with interest from the date such advances are made, at a rate which is the lesser of (i) the Prime Rate (as defined in the Project Obligations), or (ii) the highest non-usurious rate of interest permitted by applicable law, and all sums so advanced, with interest, shall be secured hereby.

**SECTION 9.05**                    **Release or Extension by Beneficiary**

The Beneficiary, without notice, may release any part of the Collateral or any Person liable for the Obligations without in any way affecting the rights of the Beneficiary hereunder as to any part of the Collateral not expressly released and may agree with any party with an interest in the Collateral to extend the time for payment of all or any part of the Obligations or to waive the prompt and full performance of any term, condition or covenant of this Mortgage or the Credit Agreement.

**SECTION 9.06**                    **Partial Payments**

Acceptance by the Beneficiary of any payment of less than the amount due on the Obligations shall be deemed acceptance on account only, and the failure of the Grantor to pay the entire amount then due shall be and continue to constitute an Event of Default, and at any time thereafter and until the entire amount due on the Obligations has been paid, the Beneficiary shall be entitled to exercise all rights conferred on it by the terms of this Mortgage in case of the existence of an Event of Default.

**SECTION 9.07**                    **Addresses for Notices**

(a) Any request, demand, authorization, direction, notice, consent, or other document provided or permitted by this Mortgage to be made upon, given or furnished to, or filed with, the Grantor or the Beneficiary shall be sufficient for every purpose hereunder if in writing and (except as otherwise provided in this Mortgage) either (i) delivered personally to the party or, if such party is not an individual, to an officer, or other legal representative of the party to whom the same is directed, or (ii) mailed by certified mail, postage prepaid and addressed as set forth on the cover hereof.

(b) The Grantor and the Beneficiary may specify a different address for the receipt of such documents by mail by giving notice of the change in address to the other parties identified in this subsection.

(c) Any such notice or other document shall be deemed to be received (i) as of the date delivered, if delivered personally in accordance with **subsection (a) of this Section**, or (ii) as of three days after the date deposited in the mail, if mailed in accordance with **subsection (a) of this Section**.

**SECTION 9.09**                    **Construction of Mortgage**

This Mortgage may be construed as a mortgage, chattel mortgage, conveyance, assignment, security agreement, pledge, financing statement, hypothecation or contract, or any one or more of them, in order fully to effectuate the lien hereof and security interest created hereby and the purposes and agreements herein set forth.

**SECTION 9.10**                    **Effect of Headings and Table of Contents**

The article and section headings herein and in the Table of Contents are for convenience only and shall not affect the construction hereof.

**SECTION 9.11**                    **Date of Mortgage**

The date of this Mortgage is intended as and for a date for the convenient identification of this Mortgage and is not intended to indicate that this Mortgage was executed and delivered on said date.

**SECTION 9.12**                    **Governing Law**

This Mortgage shall be construed in accordance with and governed by the laws of the State of Texas.

**SECTION 9.13                    Counterparts**

This Mortgage may be executed in any number of counterparts, each of which so executed shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

**SECTION 9.14                    No Obligations with Respect to Leases**

The Beneficiary shall not by virtue of this Mortgage or otherwise assume any duties, responsibilities, liabilities or obligations with respect to the Leases, or any of the other Collateral (unless expressly assumed by the Beneficiary under a separate agreement in writing), and this Mortgage shall not be deemed to confer on the Beneficiary any duties or obligations that would make the Beneficiary directly or derivatively liable for any person's negligent, reckless or willful conduct. To the extent permitted by law, the Grantor agrees to defend, indemnify and save harmless the Beneficiary from and against any and all claims, causes of action and judgments relating to the Grantor's performance of its duties, responsibilities and obligations under Leases and with respect to any of the other Collateral.

IN WITNESS WHEREOF, the undersigned SOUTH TEXAS EDUCATIONAL TECHNOLOGIES, INC. has caused this Deed of Trust to be executed in its name, under seal, by an officer thereof duly authorized thereunto, on the date first written above.

**SOUTH TEXAS EDUCATIONAL  
TECHNOLOGIES, INC.**

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

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF TEXAS

COUNTY OF HIDALGO

This instrument was acknowledged before me on August \_\_, 2016, by \_\_\_\_\_,  
in his/her capacity as \_\_\_\_\_ of South Texas Educational Technologies, Inc.,  
a Texas nonprofit corporation, on behalf of said nonprofit corporation.

\_\_\_\_\_

Notary Public

Printed Name:

\_\_\_\_\_

My Commission Expires:

\_\_\_\_\_

EXHIBIT A  
TO  
DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING

Legal Description of Project Site

Tract I:

Lots 5, 6, 7, 8, 9, 10, 11 and 12, Block 36, NORTH McALLEN TOWNSITE, Hidalgo County, Texas, according to map thereof recorded in Volume "Z", Page 40, Deed Records of Hidalgo County, Texas.

Tract II:

Lot 1, L.L. FRERKING SUBDIVISION, an Addition to the City of Weslaco, Hidalgo County, Texas, according to the map recorded in Volume 25, Page 184-A, Map Records, in the Office of the County Clerk of Hidalgo County, Texas.

EXHIBIT B  
TO  
DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING

[ Existing Leases ]

None.

EXHIBIT C  
TO  
DEED OF TRUST, ASSIGNMENT OF LEASES, SECURITY AGREEMENT AND FIXTURE FILING

[Permitted Exceptions]

1. Real Property Taxes for year 2016 and each year thereafter not yet due and payable.
2. Mineral and/or royalty grant and/or reservation in instrument dated April 1, 1952, recorded in Volume 125, Page 156, Mineral Deed Records, Hidalgo County, Texas. Title to the herein described mineral interest(s) was not checked subsequent to the date(s) of the aforesaid instrument(s). (As to Lots 7, 8, 9, 10, 11 & 12) (As to Tract I)
3. Oil, Gas and Mineral Lease(s) dated February 23, 1952, recorded in Volume 127, Page 442, Oil and Gas Records, and unitized in instrument dated May 8, 1952, recorded in Volume 126, Page 174, Oil and Gas Records, Hidalgo County, Texas. Title to the herein described mineral interest(s) was not checked subsequent to the date(s) of the aforesaid instrument(s). (As to Lots 5 & 6) (As to Tract I)
4. Oil, Gas and Mineral Lease(s) dated April 1, 1952, recorded in Volume 128, Page 564, Oil and Gas Records, and unitized in instrument dated June 10, 1952, recorded in Volume 128, Page 411, Oil and Gas Records, Hidalgo County, Texas. Title to the herein described mineral interest(s) was not checked subsequent to the date(s) of the aforesaid instrument(s). (As to Lots 7, 8, 9, 10, 11 & 12) (As to Tract I)
5. Certified copies of Chapter 20, City of McAllen, Code of Ordinance Book dated December 20, 1983, recorded in Volume 1920, Page 726, Official Records, and dated February 3, 1992, recorded in Volume 3211, Page 718, Official Records, Hidalgo County, Texas. Title to the herein described mineral interest(s) was not checked subsequent to the date(s) of the aforesaid instrument(s). (As to Tract I)
6. Easement and Right of way dated May 2, 1977, recorded in Volume 1540, Page 178, Deed Records of Hidalgo County, Texas. (As to Tract I)
7. Mineral and/or royalty grant and/or reservation in instrument dated October 8, 1921, recorded in Volume 131, Page 267, Deed Records, Hidalgo County, Texas. Title to the herein described mineral interest(s) was not checked subsequent to the date(s) of the aforesaid instrument(s). (As to Tract II)
8. Oil, Gas and Mineral Lease dated November 18, 1980, recorded in Volume 397, Page 565, Oil and Gas Records, Hidalgo County, Texas. Title to the herein described mineral interest(s) was not checked subsequent to the date(s) of the aforesaid instrument(s). (As to Tract II)
9. Oil, Gas and Mineral Lease dated December 21, 1976, recorded in Volume 364, Page 524, Oil and Gas Records, Hidalgo County, Texas. Title to the herein described mineral interest(s) was not checked subsequent to the date(s) of the aforesaid instrument(s). (As to Tract II)
10. Easements, rules, regulations and rights in favor of Hidalgo and Cameron Counties Irrigation District No. 9. (As to Tract II)
11. Easements and reservations as may appear upon the recorded map and dedication of said subdivision. (As to both Tracts)