

ACAPS No.: 20161621158450  
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Balch & Bingham, LLP  
205-227-8782

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**CREDIT AGREEMENT**

**Dated as of August 26, 2016**

**between**

**SOUTH TEXAS EDUCATIONAL TECHNOLOGIES, INC.**

**and**

**REGIONS BANK**

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**Regarding**  
**[\$150,000] Maximum Principal Amount**  
**Taxable Credit Facility**

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**This Credit Agreement was prepared by David B. Ringelstein II of Balch & Bingham LLP, 1901 Sixth Avenue North, Suite 1500, Birmingham, Alabama 35203-4642**

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## CREDIT AGREEMENT

THIS AGREEMENT is dated as of August 26, 2016, by SOUTH TEXAS EDUCATIONAL TECHNOLOGIES, INC., a Texas nonprofit corporation, as debtor (the "Borrower"), and REGIONS BANK, a state banking corporation, as lender and secured party (the "Lender").

### Recitals

The Borrower has requested the Lender to make a loan and other credit facilities available to the Borrower, as more particularly described herein, and the Lender has agreed to make such loan and other credit facilities so available to the Borrower on the terms and conditions set forth herein.

Upon the issuance of the Note (as hereafter defined), the Lender will deposit the principal proceeds thereof into the within referenced Project Fund for the account of the Borrower which deposit shall, pursuant hereto, constitute an identical and contemporaneous loan to the Borrower under this Credit Agreement of the principal amount of the Note, and the Borrower will agree to pay such amounts at such times to the Lender as shall be sufficient to pay when due the principal of, premium (if any) and interest on the Note.

The Note will be secured by the collateral pledged under the Master Indenture, including without limitation the pledged **Revenues** as hereafter defined and the real property pledged as collateral under the Mortgage (as hereafter defined). To memorialize the security afforded the Note and its holder as a "Related Bond" (as defined in the Master Indenture), the Borrower will execute and deliver a [\$150,000] maximum principal amount Master Trust Indenture Promissory Note, Series 2016-B (the "Taxable MTI Note") in favor of the Lender to evidence that the Note has been issued as an additional parity obligation pursuant to the Master Trust Indenture and Security Agreement dated as of August 26, 2016, amending and restating the Master Trust Agreement and Security Agreement dated as of December 22, 2011 (the "Master Indenture"), between Borrower and Regions Bank, as successor corporate trustee (the "Trustee").

Simultaneously with the issuance of the Note, the Borrower and Lender are also entering into a Financing and Loan Agreement (the "Financing Agreement") with the Crawford Education Facilities Corporation (the "Issuer") to memorialize tax-exempt indebtedness to be issued in the principal amount of \$1,745,000 in the form of the Special Project Revenue Note by the Issuer (South Texas Educational Technologies, Inc. Project) (the "Tax-Exempt Note") which will be recognized as parity debt under the Master Indenture and the Borrower will execute and deliver to Regions Bank, in its capacity as trustee a MTI Promissory Note (the "Tax-Exempt MTI Note") to memorialize that said Tax-Exempt Note is secured on a pro rata basis with the Taxable MTI Note and all the other Outstanding Parity Obligations (as defined herein) and any additional parity obligations hereafter issued.

### Agreement

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements herein, the Borrower and the Lender hereby agree as follows:

## **ARTICLE 1**

### Definitions

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

- (1) 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.
- (2) All accounting terms not otherwise defined herein have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.

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

**Act of Insolvency** shall mean, with respect to any Person, the appointment of a receiver, liquidator or trustee of such Person or any of its Properties or assets; or a general assignment by such Person for the benefit of the creditors thereof; or the commencement of proceedings by or against such Person under any bankruptcy, reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation law of any jurisdiction, now or hereafter in effect.

**Actual/360 Basis** shall mean a method of computing interest or other charges hereunder on the basis of an assumed year of 360 days for the actual number of days elapsed, meaning that interest or other charges accrued for each day will be computed by multiplying the rate applicable on that day by the unpaid principal balance (or other relevant sum) on that day and dividing the result by 360.

**Adjusted Revenues** shall have the meaning assigned to it in the Master Trust Indenture.

**Authorized Borrower Representative** shall mean Alim Ansari, in his capacity as Board President of Borrower, or Ms. Angela Gonzalez, in her capacity as Chief Financial Officer of the Borrower, and/or any other officer of the Borrower as shall be designated by the Board of Directors of the Borrower to act as an Authorized Borrower Representative for purposes of this Agreement.

**Business Day** shall mean any day other than (1) a Saturday, a Sunday or (2) a day on which the payment system of the Federal Reserve System is not operational, or (3) a day on which banking institutions are required or authorized to remain closed in the city in which the office of the Lender in Dallas, Texas is located.

**Capitalized Lease Obligation** shall mean, as to any Person, the capitalized amount of the obligations of such Person under all Capitalized Leases.

**Code** shall mean the Internal Revenue Code of 1986, as amended.

**Contingent Obligation** shall mean, as to any Person, any contingent obligation calculated in conformity with GAAP, and in any event shall include (without duplication) all indebtedness, obligations or other liabilities of such Person guaranteeing or in effect guaranteeing the payment or performance of any indebtedness, obligation or other liability, whether or not contingent (collectively, the “primary obligations”), of any other Person (the “primary obligor”) in any manner, whether directly or indirectly, including any indebtedness, obligation or other liability of such Person, (1) to purchase any such primary obligation or any property constituting direct or indirect security therefor, (2) to advance or supply funds (a) for the purchase or payment of any such primary obligation or (b) to maintain working capital or equity capital of the primary obligor or otherwise to maintain the net worth or solvency of the primary obligor, (3) to purchase property, securities or services primarily for the purpose of assuring the owner of any such primary obligation of the ability of the primary obligor to make payment of such primary obligation, or (4) otherwise to assure or hold harmless the owner of such primary obligation against loss with respect thereto.

**Credit Agreement** shall mean this Agreement.

**Debt** shall mean, as to any Person, all items that in conformity with GAAP would be shown on the balance sheet of such Person as a liability and in any event shall include (without duplication) (1) indebtedness for borrowed money or for notes, debentures or other debt securities, (2) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money, (3) current liabilities in respect of unfunded vested benefits under plans covered by Title IV of ERISA; (4) reimbursement obligations in respect of letters of credit issued for the account of such Person (including any such obligations in respect of any drafts drawn thereunder), (5) liabilities for all or any part of the deferred purchase price of property or services, (6) liabilities

secured by any Lien on any Property owned or held by such Person regardless of whether the indebtedness secured thereby shall have been assumed by or is a primary liability of such Person, (7) Capitalized Lease Obligation, (8) Contingent Obligation, and (9) following termination of any interest rate swap, or hedge, agreement, any amounts owed as a termination penalty which remain unpaid; provided, however, that "Debt" shall not include (i) trade payables and similar unsecured current obligations incurred in the ordinary course of business, or (ii) deferred compensation payables.

**Default Rate** shall mean a rate of interest equal to the Prime Rate plus 3.0%.

**EBITDAR** refers to the financial measurement of the Borrower's earnings without regard to Interest Expense, Taxes, depreciation, amortization, or rent costs.

**ERISA** shall mean the Employee Retirement Income Security Act of 1974, as amended.

**Event of Default** shall have the meaning assigned to that term in *Article 7* of this Agreement.

**Financing Documents** shall mean collectively each of the following as any of the same may at any time be amended, supplemented or restated: the Credit Agreement, the Financing Agreement, the Note, the Taxable MTI Note, the Tax-Exempt Note, the Tax-Exempt MTI Note, the Mortgage, the Supplemental Indenture and any UCC-1 financing statements filed in connection therewith.

**GAAP** shall mean generally accepted accounting principles in the United States of America in effect from time to time consistently applied.

**Lender** shall mean Regions Bank, and its successors and assigns.

**Lien** shall mean, as to any asset, (1) any lien, charge, claim, mortgage, security interest, pledge, hypothecation or other encumbrance of any kind with respect to such asset, (2) any interest of a vendor or lessor under any conditional sale agreement, capitalized lease or other title retention agreement relating to such asset, (3) any reservation, exception, encroachment, easement, right-of-way, covenant, condition, restriction, lease or other title exception affecting such asset, or (4) any assignment, deposit, preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any conditional sale or other title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of any financing statement under the UCC or comparable law of any jurisdiction).

**London Banking Day** shall mean a day on which commercial banks are open for business (including dealings in foreign exchange and foreign current deposits) in the City of London.

**Margin Stock** shall have the meaning assigned to that term in Regulation U of the Federal Reserve Board, as amended.

**Master Indenture or Master Trust Indenture** refers to that certain Master Trust Indenture and Security Agreement dated as of August 26, 2016, by and between Borrower and Trustee, amending and restating that certain Master Trust Indenture and Security Agreement dated as of December 22, 2011, by and between Borrower and Wells Fargo, N.A.

**Material Adverse Effect** shall mean any act or circumstance or event which (i) causes an Event of Default or Default, (ii) otherwise likely to be material and adverse to the financial condition or business operations of the Borrower or (iii) would adversely affect the validity or enforceability of any of the Financing Documents or any of the papers executed in connection with the Note.

**Material Change** shall mean any change the cost of which, when added to all other changes, would change the cost of the Project by \$25,000 or more.

**Mortgage** shall refer to that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing executed by Borrower in favor of Lender to be recorded in the County Clerk's office of Hidalgo County, Texas.

**Taxable MTI Note** shall have the meaning ascribed to it in the Recitals.

**Trustee** refers to Regions Bank, as corporate trustee, and its successors and assigns.

**Note** shall have the meaning provided in *Section 2.02(a)*.

**Obligation** or **Obligations** shall mean and include

(1) all debt service payments, loan commissions, fees, charges and costs becoming due and payable under this Credit Agreement in accordance with the terms hereof and any payments due under any of the Financing Documents;

(2) all late charges and all interest on late payments becoming due and payable under this Credit Agreement and Note;

(3) all amounts becoming due and payable under this Credit Agreement upon the occurrence and continuance of an Event of Default hereunder;

(4) all amounts becoming due and payable under this Credit Agreement as reimbursement of increased costs to the Lender caused by changes in laws or regulations or in the interpretation hereof;

(5) all other amounts becoming due and payable by any Obligor under this Credit Agreement;

(6) all amounts becoming due and payable by any Obligor under the terms of any security agreements, guarantees, mortgages or other documents now or hereafter evidencing or securing the obligations of the Obligors under the Financing Documents or under the Outstanding Parity Obligations;

(7) all other indebtedness, obligations (including obligations of performance) and liabilities of any Obligor to the Lender 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 Lender 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, guarantor or otherwise, and any and all extensions, restatements and renewals of any of the same; and

(8) all renewals and extensions of any or all the obligations of the Obligors described in paragraphs (1) through (7) above (including without limitation any renewal or extension of, and any substitute for, the Note), whether or not any renewal or extension agreement is executed in connection therewith.

**Obligor** shall mean the Borrower and any other Person who is now or hereafter becomes obligated to the Lender with respect to the Note or any of the other Obligations.

**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.

**Person** shall include natural persons, sole proprietorships, corporations (which shall be deemed to include business trusts), limited liability companies and partnerships, 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.

**Prime Rate** shall mean the rate of interest announced from time to time by the Lender as its commercial base or prime interest rate, with the understanding that the Lender's base or prime interest rate is an interest rate established from time to time for lending purposes after taking into account such factors as the Lender may in its sole discretion from time to time deem appropriate and is not necessarily the best or lowest rate offered by the Lender.

**Project** shall mean the Property financed and/or refinanced from the proceeds of the Note, as described on **Exhibit B**, and generally known as follows: the acquisition and construction indebtedness associated with the Borrower's educational facilities located at 320 N. Main Street, McAllen, Texas and 1223 W. Sugarcane Drive, Weslaco, Texas, being the same properties originally financed from proceeds of the Series 2011 Bonds.

**Project Costs** shall mean all costs of the Project, and the acquisition, construction, and installation of the Project, including without limitation: (1) the cost of labor, materials and supplies furnished or used in the acquisition, construction, installation or equipping, of the Project, (2) acquisition, transportation and installation costs for the Project, (3) fees for architectural, engineering and supervisory services, (4) expenses incurred in the enforcement of any remedy against any contractor, subcontractor, materialmen, vendor, supplier or surety, (5) expenses incurred by the Lender in connection with the financing of the Project, including legal, consulting and accounting fees, (6) reimbursement to the Borrower for any of the foregoing costs, fees and expenses set forth in (1) through (5) above, paid with the Borrower's funds.

**Project Fund** shall mean the fund established pursuant to ***Section 3.02***.

**Property** shall mean any kind of property or asset, whether real, personal or mixed, or tangible or intangible.

**Revenues** shall mean, for any period of time for which calculated, the total of all receipts, operating revenues and gains derived by the Borrower during such period, determined in accordance with GAAP, including but not limited to State Revenues, and also including interest earnings on all funds or accounts of Borrower. Revenues shall not, however, include (i) any contributions, grants (excluding grants by the State) or gifts made to the Borrower or (ii) any income derived from the investment of any such contribution, grant or gift.

**Series 2011 Bonds** refers to those certain San Juan Higher Education Finance Authority (Horizon Montessori Schools) Revenue Bonds, Series 2011, issued by San Juan Educational Facilities Corporation, in the original principal amount of \$2,500,000, and currently outstanding in the principal amount of \$1,745,000.

**State** shall mean the State of Texas.

**Tax-Exempt Notes** shall mean and include any obligation which is a "tax-exempt bond" as defined in Treas. Reg. §1.150-1(b) and which is not investment property under Section 148(b)(3) of the Code.

## ARTICLE 2

### **Loan and Pledge as Security Agreement**

#### **SECTION 2.01 Loan.**

The Lender agrees, upon the terms and subject to the conditions of this Agreement, to make a loan to the Borrower in the maximum aggregate principal amount of [\$150,000] (the "**Loan**"). The Loan will be made by deposit of the advance of principal amount of the Note in the Project Fund established pursuant to ***Section 3.02***, for the account of the Borrower, which deposit(s) shall collectively constitute an immediate and contemporaneous loan by the Lender to the Borrower of the principal proceeds of the Note.

**SECTION 2.02 Note; Payments of Principal and Interest.**

(a) All advances under the Loan shall be evidenced by a promissory note (the "Note") in substantially the form of *Exhibit A* attached hereto, payable to the order of the Lender and duly executed on behalf of the Borrower.

(b) Subject to the other adjustments which may be made pursuant to the terms of this Agreement, the Note shall bear interest on the unpaid principal balance of the amount advanced thereunder from the date advanced until payment in full at a fixed rate per annum equal to the rate as set forth in the Note.

(c) Such principal and interest shall be payable monthly on the 26<sup>th</sup> day of each month commencing September 26, 2016, and continue on the 26<sup>th</sup> day of each month thereafter until payment in full as set forth in the Note.

(d) If an Event of Default exists, the Note shall bear interest at the Default Rate, until the earlier of (1) such time as all amounts due hereunder are paid in full or (2) no such Event of Default exists.

(e) If not sooner paid, the outstanding principal amount of the Loan and all accrued and unpaid interest shall be due and payable on **August 26, 2021**.

(f) The Borrower may at any time prepay all or any part of the Loan, without premium, plus accrued interest to the date of prepayment shall be paid on any partial or whole prepayment of Note; provided, however, if the prepayment is derived from funds from a third-party financial institution or bond underwriter other than Regions Bank and/or its affiliates, Borrower shall owe a 1% prepayment penalty on the amount of principal prepaid.

**SECTION 2.03 Lender Counsel Fees.**

On or prior to the execution and delivery of this Agreement, the Borrower will pay Lender's counsel's fees chargeable to Borrower plus Borrower shall pay any recording costs associated with recording the Mortgage and any applicable UCC financing statements.

**SECTION 2.04 [Reserved].**

**SECTION 2.05 Place and Time of Payments.**

(a) All payments by the Borrower to the Lender hereunder shall be made in lawful currency of the United States of America and in immediately available funds to the Lender at its address set forth herein or at such other address within the continental United States as shall be specified by the Lender by notice to the Borrower; provided, nothing herein shall be construed to require payment of any amount in advance of the due date thereof.

(b) All amounts payable by the Borrower to the Lender hereunder for which a payment date is expressly set forth herein (including without limitation payments due pursuant to *Section 2.02*) shall be payable without notice or written demand by the Lender ; provided, however, that the Lender agrees to send a monthly statement of the amount due, but the amounts payable on a set payment date shall be due regardless of whether such a statement is sent or received. All amounts payable by the Borrower to the Lender hereunder for which no payment date is expressly set forth herein shall be payable on written demand by the Lender to the Borrower.

(c) The Lender may, at its option, send written notice to the Borrower of amounts payable pursuant to *Section 2.02*, but the failure to send such notice shall not affect or excuse the Borrower's obligation to make payment of the amounts required by such Sections on the due date specified in such Sections.

(d) Payments which are due on a day which is not a Business Day shall be payable on the next succeeding Business Day, and any interest payable thereon shall be payable for such extended time at the specified rate.

**SECTION 2.06 Late Charges and Interest on Overdue Amounts.**

With respect to all amounts payable to the Lender by the Borrower pursuant to this Article which are not paid on the due date, in the case of amounts payable on a specified date, or which are not paid within five (5) days of written notice to the Borrower, in the case of amounts payable on demand, the Borrower agrees to pay to the Lender on demand (i) a late charge of five percent (5%) of any such amount or amounts which shall not have been paid within five (5) days of the due date as specified above and (ii) interest on such amounts or amounts at an interest rate equal to the Prime Rate plus three percent (3%) per annum for each day from the specified date of payment, or the date of written demand for payment, as the case may be, to the date such payment is made.

**SECTION 2.07 Computation of Charges; Statements of Account.**

(a) The interest and charges provided for in this Agreement payable in arrears based upon annual rates shall be computed on an Actual/360 Basis.

(b) All interest rates based upon the Prime Rate shall change when and as the Prime Rate shall change, effective on the opening of business on the date of any such change, unless such change is announced after the close of regular banking hours, in which case such change shall be effective on the following day.

(c) Upon receipt of the written request of the Borrower, the Lender will account to the Borrower annually with a statement of charges and payments made pursuant to this Agreement.

**SECTION 2.08 Receipt of Payments.**

All cash payments and all finally collected checks, drafts or similar items of payment by or for the account of the Borrower which are delivered to the Lender on account of the Note shall be applied by the Lender on account of the Note daily unless otherwise agreed in writing by the Borrower and the Lender. Checks, drafts or other items of payment received by the Lender need not be applied by the Lender on account of the Note until the Lender determines they have been finally collected; and the same shall not constitute payment to the Lender unless and until actually collected by the Lender. Wire transfers shall be deemed finally collected upon receipt thereof.

**SECTION 2.09 Participations.**

The Borrower understands that the Lender may, in accordance with this *Section 2.09*, from time to time enter into a participation agreement or agreements with one or more persons (the "Participants"), pursuant to which the Participants shall be given participations in the Loan and that the Participants may from time to time similarly grant to one or more other persons (also included in the term "Participants") subparticipations in the Loan. The Borrower hereby grants to each Participant (in addition to any other rights which such Participant may have) a continuing security interest in any money, securities and other real or personal property of the Borrower which are in the possession of such Participant. The Borrower further agrees that any Participant may exercise any and all rights of banker's lien or set-off with respect to the Borrower as fully as if such Participant had made a loan directly to the Borrower in the amount of the participation or subparticipation given to such Participant in the Loan under the conditions herein permitting exercise of the same. For the purposes of this Section only, the Borrower shall be deemed to be directly obligated to each Participant in the amount of its participating interest in the amount of principal of, and interest on, the Loan; provided, however, that nothing contained in this Section shall affect the Lender's right of set-off (under this Section or applicable law) with respect to the entire amount of any of such credit facilities, notwithstanding any such participation or subparticipation, except that the aggregate right of set-off shall not exceed the balance of the Note. The Lender may divulge to any Participant all information, reports, financial statements, certificates and documents obtained by it from the Borrower or any other person under any provision of this Agreement or otherwise.

**SECTION 2.10 Pledge and Grant of Security Interest.**

(a) As security for repayment of the Note, the Taxable MTI Note, the Tax-Exempt Note, and the Tax-Exempt MTI Note, and the performance of the Borrower's other obligations under this Credit Agreement and the other Financing Documents, the Borrower hereby acknowledges that the Note is being issued as an additional parity



obligation pursuant to the Master Trust Indenture and hereby pledges, sets over, assigns and grants a security interest in and to all of the assets and Properties of the Borrower pledged pursuant to the terms of the Master Indenture in favor of said Note, the Tax-Exempt Note, the Outstanding Parity Obligations, and any additional parity obligations hereafter issued pursuant to the Master Indenture.

(b) The Borrower and the Lender acknowledge that pursuant to the Master Indenture, the Borrower has heretofore pledged and granted a lien on and security interest in all Adjusted Revenues as security for Outstanding Parity Obligations and that the Note and Tax-Exempt Note will be issued (pursuant to the Master Trust Indenture) as an additional parity obligation payable from said Adjusted Revenues on a para passu basis with the Outstanding Parity Obligations, and any additional parity obligations hereafter issued pursuant to Article IV of the Master Trust Indenture. To evidence the collateral pledged under the Master Indenture in favor of the Note, the Borrower will execute and deliver the Taxable MTI Note in favor of Lender.

### ARTICLE 3

#### **Conditions Precedent to Closing; Advances from the Project Fund**

##### **SECTION 3.01 Conditions Precedent to Closing.**

The obligation of the Lender to make the Loan to the Borrower is subject to the satisfaction by the Borrower of each of the following conditions precedent thereto as of the Business Day on which the Loan is made:

(a) No Event of Default shall have occurred and be continuing and no event shall have occurred and be continuing which, upon notice or lapse of time, or both, would constitute an Event of Default.

(b) The representations and warranties made by the Borrower in the Financing Documents shall be true and correct.

(c) The Borrower shall have performed or observed all agreements, covenants, and conditions required by the Lender to be performed or observed by the Borrower.

(d) Any proceedings taken in connection with the performance and observance of the provisions of this Agreement shall be reasonably satisfactory to the Lender and the Lender shall have received, in form and substance satisfactory to Lender and counsel therefor:

(1) Financing Documents. An executed counterpart of each of the Financing Documents.

(2) Opinions of Counsel for Borrower. (a) An opinion of counsel for the Borrower in acceptable form to Lender.

(3) Organization of Borrower and Approvals. A certified copy of (i) the incorporation and organization papers of the Borrower and (ii) all corporate action taken by the Borrower approving the Financing Documents, and the consummation of the transactions contemplated thereby (including, without limitation, a certificate or proceedings setting forth the resolutions of the members of the Borrower for such purpose).

(4) Certificate of Borrower. A certificate by the Borrower to the effect that, as of the date of the purchase of the Note and the making of the Loan, and after giving effect thereto: (i) no Event of Default shall have occurred and be continuing; (ii) no event shall have occurred and be continuing which, with notice or lapse of time or both, would constitute an Event of Default under this Credit Agreement or any of the other Financing Documents, (iii) the representations and warranties made by the Borrower in this Credit Agreement and the other Financing Documents shall be true on and as of such date with the same force and effect as if made on and as of such date, and (iv) any and all certifications required by the Master Indenture for the Note to be issued as an additional parity obligation under the Master Indenture.

(5) Governmental Approvals. The Lender shall receive copies of any authorizations and other governmental approvals required for the Note and the Note.

(6) Title Insurance. The Lender shall receive copies of any and all title insurance or endorsements required by Lender as Collateral (as defined in the Mortgage).

(7) Additional Evidence. Such additional legal opinions, certificates, proceedings, instruments and other documents as the Lender or its counsel may reasonably request to evidence (i) compliance by the Borrower with legal requirements, (ii) the truth and accuracy, as of the date of delivery of the purchase of the Note of the representations of the Borrower contained in the Financing Documents, and (iii) the due performance or satisfaction by the Borrower, at or prior to the date of the purchase of the Note by the Lender, of all agreements then required to be performed and all conditions then required to be satisfied by the Borrower pursuant to the Financing Documents.

### **SECTION 3.02 Project Fund; Use of Proceeds of Advances**

(a) (1) There is hereby established a special fund for the Project designated the "Project Fund". The Borrower and the Lender hereby appoint the Lender (acting through Regions Portfolio Administration or other department or division of Lender) to hold the Project Fund and to disburse the funds in accordance with the terms of this Agreement.

(2) On the date of issuance of the Note the principal proceeds of the Note shall be deemed deposited in the Project Fund pursuant to Section 2.01 hereof (such amounts are herein described as the "Note Proceeds") and the amount of \$\_\_\_\_\_ shall immediately be thereafter advanced and applied to pay the accrued interest on the Series 2011 Bonds and pay costs of issuance.

(b) The Borrower does hereby pledge and grant, to the Lender a security interest in all amounts at any time on deposit in the Project Fund as security for the Note.

(c) The amounts on deposit in the Project Fund shall be invested in such investments as the Borrower shall direct in writing, and as to which the Lender shall interpose no reasonable objection, consistent with the purposes of the Project Fund.

(d) (1) The moneys in the Project Fund shall be paid out by the Lender, on the terms and subject to the conditions set forth on **Schedule 3.02** hereto, as advances (the "Advances") solely for the purpose of paying the Project Costs, upon receipt of a requisition or payment request in substantially the form as **Appendix A** to **Schedule 3.02** hereto completed and signed by any Authorized Borrower Representative and approved by the Lender;

(2) the Lender shall have no obligation to approve an Advance if any Event of Default (as provided for in Article VII hereof) has occurred and remains unremedied;

(3) the Lender shall record on its internal records (which may be kept by computer or other means) the principal amount of each Advance and the determination and certification by the Lender of the outstanding aggregate principal amount of the Advances from time to time shall be conclusive for all purposes absent manifest error.

(e) Within 45 days of the date hereof, and if no Event of Default shall have then occurred and be continuing, any amounts remaining in the Project Fund which are ineligible to be advanced by virtue of Schedule 3.02 shall be applied to the prepayment of the principal of the Note in accordance with the terms thereof and without premium or penalty.

## ARTICLE 4

### **General Representations and Warranties**

The Borrower represents and warrants to the Lender as follows:

#### **SECTION 4.01 Organization, Corporate Powers.**

(a) The Borrower is duly organized and in good standing as a nonprofit corporation under the laws of the State and is not in default under any of the provisions contained in its articles of incorporation, as amended, or bylaws or in the laws of the State.

(b) The Borrower has the corporate power and authority to own its properties, carry on the business in which it is presently engaged, and consummate the transactions contemplated by the Financing Documents to which it is a party.

(c) The Financing Documents are necessary to promote and further the financial and economic interests of the Borrower and the undertaking by the Borrower of its obligations hereunder will result in direct financial benefits to the Borrower.

#### **SECTION 4.02 Authorization of Borrowing.**

The execution, delivery and performance of those Financing Documents to which the Borrower is a party, the borrowings thereunder and the issuance of the Note (a) have been duly authorized by all requisite corporate action (including any necessary shareholder or member action), and (b) will not violate any provision of law, any order of any court or other agency of government, the documents of organization of the Borrower or any indenture, agreement or other instrument to which the Borrower is a party, or by which the Borrower or any of the properties or assets of the Borrower are bound, or result in a breach of or constitute (with due notice or lapse of time or both) a default under, any such indenture, agreement or other instrument, or result in the creation or imposition of any lien, charge or encumbrance of any nature whatsoever upon any of the properties or assets of the Borrower, except as contemplated by this Agreement.

#### **SECTION 4.03 Financial Condition.**

The Borrower has heretofore furnished to the Lender such financial information and statements as requested by the Lender. Such financial statements were prepared in conformity with GAAP consistently applied throughout the periods involved, are in accordance with the books and records of the Borrower, are correct and complete and present fairly the financial condition of the Borrower as of the date of such balance sheet and the results of operations for the period covered by such statements of income and changes in financial position and, since the date of such financial statements, no material adverse change in the financial condition, business or operations of the Borrower has occurred. There is no liability, direct or contingent, of the Borrower which is material in amount and which is not reflected in the above-described financial statements.

#### **SECTION 4.04 Taxes.**

The Borrower has filed or caused to be filed all federal, state and local tax returns which, to its knowledge, are required to be filed, and has paid or has caused to be paid all taxes as shown on said returns or on any assessment received by the Borrower to the extent that such taxes have become due.

#### **SECTION 4.05 Title to Properties**

(a) The Borrower has good and marketable title to all the Properties reflected on the balance sheet referred to in *Section 4.03* hereof except for such Properties as have been disposed of since the date of said balance sheet as no longer used or useful in the conduct of the business of the Borrower or as have been disposed of in the ordinary course of the business thereof.

(b) All such Properties are free and clear of Liens except as otherwise permitted or required by the provisions hereof, as shown on said financial statements.

**SECTION 4.06 No Litigation; No Defaults.**

(a) There are no actions, suits or proceedings (whether or not purportedly on behalf of the Borrower) pending or, to the knowledge of the Borrower, threatened against or affecting the Borrower, at law or in equity or by or before any federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign, which involve any of the transactions contemplated in this Agreement or the possibility of any judgment or liability that may result in any material adverse change in (i) the business, operations, properties or assets or in the condition, financial or otherwise, of the Borrower, and (ii) the validity or enforceability of any of the Financing Documents, or (iii) the status of the Borrower as a “501(c)(3) organization,” as that term is defined in Section 150(a)(4) of the Code.

(b) The Borrower is not in default with respect to any judgment, writ, injunction, decree, rule or regulation of any court or federal, state, municipal or other governmental department, commission, board, bureau, agency or instrumentality, domestic or foreign.

**SECTION 4.07 Agreements.**

The Borrower is not a party to any agreement or instrument, or subject to any charter or other corporate restriction, materially and adversely affecting the business, properties or assets, operations or condition, financial or otherwise, of the Borrower, and the Borrower is not in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any agreement or instrument to which the Borrower is a party, which default would have a Material Adverse Effect upon the business, properties or assets, operations or condition, financial or otherwise, of the Borrower.

**SECTION 4.08 Federal Reserve Board Regulations.**

The Borrower does not intend to use any part of the proceeds of the Note and has not incurred any indebtedness to be reduced, retired or purchased by the Borrower out of such proceeds, for the purpose of purchasing or carrying any Margin Stock, and the Borrower does not own and has no intention of acquiring any such Margin Stock.

**SECTION 4.09 Investment Company Act.**

The Borrower is not an “investment company” or a company “controlled” by an “investment company”, as such terms are defined in the Investment Company Act of 1940, as amended.

**SECTION 4.10 ERISA.**

To the best knowledge of the Borrower:

(a) the execution and delivery of this Agreement and the issuance and delivery of the Note and incurring the Loan as contemplated hereby will not involve any prohibited transaction within the meaning of ERISA or Section 4975 of the Internal Revenue Code of 1986, as amended;

(b) based upon ERISA and the regulations and published interpretations thereunder, the Borrower is in compliance in all material respects with the applicable provisions of ERISA; and

(c) no “Reportable Event” as defined in Section 4043(b) of Title IV of ERISA, has occurred with respect to any plan maintained by the Borrower.

**SECTION 4.11 Compliance With Legislation Regulating Environmental Quality.**

(a) To the knowledge of the Borrower, all properties owned by the Borrower have been maintained in compliance in all material respects with all federal, state and local environmental protection, occupational, health and safety or similar laws, ordinances, restrictions, licenses and regulations, including but not limited to the Federal Water Pollution Control Act (33 U.S.C. § 1251 et seq.), Resource Conservation & Recovery Act (42 U.S.C. § 6901 et seq.), Safe Water Drinking Act (42 U.S.C. § 3000(f) et seq.), Toxic Substances Control Act (15 U.S.C. § 271 et seq.), Clean Air Act (42 U.S.C. § 7401 et seq.) and Comprehensive Environmental Response of Compensation and Liability Act (42 U.S.C., § 6901 et seq.) ("CERCLA").

(b) The Borrower has not received any written notification from any governmental authority with respect to current, existing violations of any of the laws enumerated in clause (a) above, or pursuant to any of their respective implementing regulations or state analogues to such laws or regulations.

(c) To the knowledge of the Borrower, there has not been, at any location owned by the Borrower, any "Release" of any "Hazardous Substance," in each case as defined in CERCLA (without giving effect to the exclusion of any petroleum products from the definition of Hazardous Substance).

(d) To the knowledge of the Borrower, the Borrower has not sent or arranged for the transportation or disposal of Hazardous Substances or wastes to a site which, pursuant to CERCLA or any similar state law (i) has been placed or is proposed (by the Environmental Protection Agency or relevant state authority) to be placed, on the "National Priorities List" of hazardous waste sites or its state equivalent, or (ii) is subject to a claim, an administrative order or other request to take "removal" or "remedial" action (in each case as defined in CERCLA) by any person.

**SECTION 4.12 Solvency.**

The Borrower is not, and will not be upon the delivery of the Financing Documents, insolvent in that the sum of the debts of the Borrower is not greater than all of the property, of the Borrower at a fair valuation, and no proceedings or action for (a) the enforcement of creditors' rights against the Borrower or (b) the bankruptcy, reorganization, readjustment of debt, dissolution or liquidation of the Borrower, are pending or have ever been taken under any applicable state or federal law or rule of law.

**SECTION 4.13 Section 501(c)(3) Status.**

(a) The Borrower (i) has been incorporated as a nonprofit corporation, and has been determined to be and is exempt from Federal income taxes under Section 501(a) of the Code by virtue of being an organization described in Section 501(c)(3) of the Code and is not a "private foundation," as such term is defined under Section 509(a) of the Code, (ii) has received a determination letter (the "Determination Letter") from the Internal Revenue Service to that effect, (iii) has done nothing to impair its status as an exempt organization and (iv) continues to meet the requirements of the Code necessary not to be a "private foundation" under Section 509(a) of the Code.

(b) The Borrower has not operated in a manner materially different from the purposes, activities and methods of operation that formed the basis for the determination that the Borrower is an organization described in Section 501(c)(3) of the Code. The Borrower has not diverted a substantial part of its income or assets for purposes other than those for which the Borrower is organized and operated.

(c) As of the date hereof, the Borrower has not received any notice from the IRS to the effect that (i) is actively considering a modification or revocation of the Borrower's tax-exempt status under Section 501(c)(3) of the Code or (ii) that the IRS has determined to audit the Borrower or its activities or the Note.

(d) The Borrower has timely and properly filed with the IRS all annual reports, tax returns and other matters required to be filed by the Borrower since its date of incorporation and such reports, returns and other matters are accurate and complete, other than delinquent filings of Form 990 which have been fully remedied with no penalty or fine assessed.

**SECTION 4.14 Compliance with Laws.**

The Borrower is not in violation of any statute, rule or regulation of any Governmental Authority (including, without limitation, any statute, rule or regulation relating to employment practices or to environmental, occupational and health standards and controls) the violation of which would have a Material Adverse Effect. Borrower has obtained all licenses, permits, franchises, and other governmental authorizations necessary for the ownership of its properties and the conduct of its business. Borrower is current with all reports and documents required to be filed with any Governmental Authority.

**SECTION 4.15 Governmental Consent.**

No consent, approval or authorization of, or filing, registration or qualification with, any Governmental Authority on the part of the Borrower is required in connection with the execution and delivery of the Financing Documents.

**ARTICLE 5**

**General Affirmative Covenants**

The Borrower covenants and agrees that from the date of delivery of this Agreement and until payment in full of the Note unless the Lender shall otherwise consent in writing:

**SECTION 5.01 Maintenance of Legal Existence and Properties.**

The Borrower will do or cause to be done all things necessary to preserve and keep in full force and effect the legal existence, rights and franchises of the Borrower, including, without limitation, the Borrower's authorization to operate a charter school, and comply with all laws, rules and regulations of any governmental body or regulatory authority (federal, state or local) applicable to the Borrower; qualify and remain qualified to do business in each jurisdiction in which such qualification is necessary in view of the Borrower's business or operations; at all times maintain, preserve and protect all franchises and trade names and preserve all the remainder of the property of the Borrower used or useful in the conduct of the business of the Borrower and keep the same in good repair, working order and condition, and from time to time make, or cause to be made, all needful and proper repairs, renewals and replacements, betterments and improvements thereto, so that the business carried on in connection therewith may be properly and advantageously conducted at all times; and at all times keep the insurable properties of the Borrower adequately insured and maintain (a) insurance on the properties of the Borrower to such extent and against such risks, including fire, as is customary with companies in the same or a similar business, (b) necessary workmen's compensation insurance, and (c) such other insurance as may be required by law or as may reasonably be required in writing by the Lender.

**SECTION 5.02 Payment of Indebtedness, Taxes and other Financial Notes.**

(a) The Borrower will pay the indebtedness and obligations of the Borrower in accordance with normal terms; and

(b) pay and discharge or cause to be paid and discharged promptly all taxes, assessments and governmental charges or levies imposed upon the Borrower or upon the income and profits of the Borrower or upon any of the Borrower's properties, real, personal or mixed, or upon any part thereof, before the same shall become in default, as well as all lawful claims for labor, materials and supplies or otherwise, which, if unpaid, might become a lien or charge upon such properties or any part thereof; provided, however, that the Borrower shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment, charge, levy or claim so long as the

validity thereof shall be contested in good faith by appropriate proceedings provided it doesn't materially jeopardize Borrower's right(s) to said Property.

**SECTION 5.03 Financial Statements, Reports, to be Furnished to the Lender.**

So long as the Obligations remain outstanding, the Borrower will cause to be furnished to the Lender:

(a) within 150 days after the end of the end of the fiscal year of the Borrower, the balance sheet of the Borrower as of the end of such year and the related statements of income and changes in financial position for such fiscal year, together with supporting schedules, all in reasonable detail and on a combined and consolidated basis and on a comparative basis with the prior fiscal year, prepared in accordance with GAAP consistently applied throughout the periods involved, and audited by independent certified public accountants of recognized standing satisfactory to the Lender, showing the combined and consolidated financial condition, assets, liabilities and retained earnings of the Borrower at the close of such year and the combined and consolidated results of the operations of the Borrower during such year, and also within 30 days after the end of the fiscal year of the Borrower the budget for the forthcoming fiscal year;

(b) with the statements submitted under *Section 5.03(a)*, a certificate signed by the principal financial officer of the Borrower to the effect that no Event of Default, nor any event which, upon notice or lapse of time or both, would constitute an Event of Default, has occurred or, if any such Event of Default or event has occurred, specifying the nature and extent thereof, and demonstrating specific compliance with any financial covenants herein as of such reporting date;

(c) promptly upon receipt thereof, copies of all other reports, management letters and other documents as the Lender may reasonably request submitted to the Borrower by independent accountants in connection with any review or audit of the books, or compilations of the financial results, of the Borrower made by such accountants;

(d) promptly upon receipt thereof, copies of all other reports, letters and other communications from the Texas Department of Education regarding the Borrower's charter to operate as a charter school;

(e) if requested by Lender, within 30 days after the end of each fiscal quarter a report of the current enrollment at the Borrower's schools;

(f) as soon as practical, from time to time, such other information regarding the operations, business affairs and financial condition of the Borrower as the Lender may reasonably request.

**SECTION 5.04 Litigation Notice.**

The Borrower will promptly after the same shall have become known to any member of the Board of Directors or the Superintendent of the Borrower, notify the Lender in writing of any action, suit or proceeding at law or in equity or by or before any governmental instrumentality or other agency which, if adversely determined, could reasonably be expected to materially impair the ability of the Borrower to perform the obligations of the Borrower under this Agreement, could reasonably be expected to materially impair the right of the Borrower to carry on the business of the Borrower substantially as now conducted, or could reasonably be expected to materially and adversely affect the business, operations, properties, assets or condition, financial or otherwise, of the Borrower. Such action, suit or proceeding shall not refer to any appeal from a valuation of the Property for ad valorem tax purposes.

**SECTION 5.05 Visitation.**

The Borrower will permit representatives of the Lender from time to time to visit and inspect the Project, all records related thereto, and any of the other offices and properties of the Borrower; to examine the assets and books of account of the Borrower; to discuss the affairs, finances and accounts of the Borrower with and be advised as to the same by the officers thereof; and to verify the amount, quantity, value and condition of, or any other matter relating to, the Project, all at such reasonable times and intervals as the Lender may desire and at the expense of the Lender.

**SECTION 5.06 Accounts.**

The Borrower will

- (a) keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions in relation to the business and activities of the Borrower,
- (b) deduct on the Borrower's books from the earnings of the Borrower, for each fiscal year, charges for depreciation, obsolescence and amortization of the properties of the Borrower during such year and all other proper charges which should be deducted from such earnings in connection with the business of the Borrower, and
- (c) write down or write off all property not useful in the business of the Borrower.

**SECTION 5.07 Notice of Default.**

The Borrower will promptly give notice in writing to the Lender of the occurrence of (a) any Event of Default hereunder, or any event which upon notice or lapse of time or both would constitute such an Event of Default, and (b) any event of default or any event which upon notice or lapse of time or both would constitute such an event of default under any other document or agreement to which the Borrower is a party with entities other than the Lender.

**SECTION 5.08 Indebtedness to Lender and Other Covenants.**

The Borrower will

- (a) make full and timely payment of the principal of, and interest on, the Note, whether now existing or hereafter arising, and
- (b) duly comply with all the terms and covenants contained in all other instruments and documents given to the Lender in connection with or pursuant to this Agreement, all at the times and places and in the manner set forth therein.

**SECTION 5.09 Insurance.**

- (a) The Borrower shall maintain insurance on the Property of the Borrower pledged under the Mortgages, its business, and with respect to itself, which insurance shall be of such type and in such amounts or in excess of such amounts as (i) are customarily carried by and insures against such risks as are customarily insured against by businesses of like size and character to the Borrower and (ii) shall be satisfactory to the Lender.
- (b) There shall be furnished to the Lender an ACORD certificate or certificates of the respective insurers originally executed by the authorized agent(s) attesting the fact that the insurance required by this Section is in full force and effect and reflecting all coverages, amounts and deductibles. At least fifteen (15) days prior to the expiration of any such policy, the Borrower shall furnish the Lender evidence that the policy has been renewed or replaced or is no longer required by this Agreement.

**SECTION 5.10 Further Assurances.**

The Borrower will, at the Borrower's cost and expense, upon request of the Lender, duly execute and deliver, or cause to be duly executed and delivered, to the Lender such further instruments (including, without limitation, financing statements, agreements, and other instruments) and do and cause to be done such further acts as may be reasonably necessary or proper in the opinion of the Lender or its counsel to carry out more effectively the provisions and purposes of this Agreement.



**SECTION 5.11 Preservation of Section 501(c)(3) Status.**

The Borrower will preserve and maintain the status of the Borrower as an organization described in Section 501(c)(3) of the Code, and shall timely and properly file with the Internal Revenue Service all annual reports, tax returns and other matters required to be filed by the Borrower with the Internal Revenue Service.

**SECTION 5.12 Financial Covenants.**

The Borrower will maintain a Debt Service Coverage Ratio, of at least 1.10 to 1.00, to be tested in arrears annually within 60 days after the close of Borrower's Fiscal Year, commencing with the Fiscal Year that ended August 31, 2015 (or upon receipt by Borrower of its audited financial statements, if later). For purposes of this provision, the term Debt Service Coverage Ratio shall mean, the quotient of the following: (A) the Borrower's EBITDAR less non-recurring income for the Fiscal Year divided by (B) the sum of current maturities of long-term Debt, plus rent and lease expense, plus interest expense for the test period being measured.

**SECTION 5.13 Banking Relationship and Charter Compliance.**

(a) The Borrower agrees to make all scheduled payments on the Note utilizing automatic funds withdrawal (ACH).

(b) The Borrower agrees that, prior to the issuance of the Note by the Issuer, the Borrower has transferred or will transfer at least 95% of its entire banking relationship to the Lender, including all depository accounts, merchant accounts, insurance, and trust accounts. The Borrower shall keep all such relationships with the Lender so long as either the Note or the Obligations remain outstanding.

(c) The Borrower agrees to maintain its charter to operate in compliance with the laws of the State and proactively manage any requests for renewals of said charter upon the purported expiration of its charter such that all requested paperwork is timely submitted to the appropriate governing body in the State of Texas for Borrower's school charter to be renewed.

(d) The Borrower agrees to cooperate with and participate in annual evaluations and review by the State of Texas Financial and Accountability Systems.

(e) Upon request of the Lender, the Borrower agrees to provide Lender with copies of all reports, submissions, filings, and correspondence in connection with charter renewal or the status thereof as it pertains to any of Borrower's campuses in existence or prospective.

(f) The Borrower shall maintain authorization and accreditation as an open-enrollment charter school from the State. In the event Borrower fails to meet the TEA academic or financial accounting standards for the first occurrence, the Borrower agrees that it shall provide to the Lender within thirty (30) days of notification of such failure by the TEA a detailed written report of all action(s) taken or to be taken to address and correct such deficiency. In the event the Borrower fails to meet the TEA academic or financial accounting standards for the second consecutive time, the Borrower agrees that in the event it has not already engaged a consultant (at Borrower's expense) as may be required by the TEA, the Lender shall have the right to require the Borrower to (i) engage an independent consultant with expertise in the operation and management of the academic and financial affairs of charter schools, (ii) within sixty (60) days of the notification of such failure by the TEA, provide to the Lender, a detailed written report of such independent of all action taken or to be taken to address and correct such deficiency. The Borrower agrees that its failure to implement or to begin to implement, as applicable, all of the recommendations of the independent consultant within thirty (30) days after the receipt of the consultant's report shall result in the Lender having the right to require the outstanding principal amount of the Obligation and Taxable Promissory Note to be due and payable immediately. This provision is separate and apart from any and all other remedies available to Lender upon an Event of Default as defined herein.

## ARTICLE 6

### **General Negative Covenants**

The Borrower covenants and agrees that from the date hereof and until payment in full of the Note and the Obligations unless the Lender shall otherwise consent in writing, either directly or indirectly:

#### **SECTION 6.01 Guaranties.**

The Borrower will not

(a) Guarantee, endorse, become surety for or otherwise in any way become or be responsible for obligations of any other Person whether by agreement to purchase the indebtedness of any other person, or agreement for the furnishing of funds to any other Person (directly or indirectly, through the purchase of goods, supplies or services or by way of stock purchase, capital contribution, working capital maintenance agreement, advance or loan) or for the purpose of paying or discharging the indebtedness of any other person, or otherwise, or

(b) Enter into or be a party to any contract for the purchase of merchandise, materials, supplies or other property if such contract provides that payment for such merchandise, materials, supplies or other property shall be made regardless of whether delivery of such merchandise, materials, supplies or other property is ever made or tendered; except for the endorsement of negotiable instruments by the Borrower in the ordinary course of business for collection.

#### **SECTION 6.02 Sale of Assets, Consolidation, Merger, etc.**

(a) The Borrower will not

(1) Sell, lease, assign, transfer or otherwise dispose of all or a substantial part of the properties and assets of the Borrower to any Person;

(2) Consolidate with or merge into any other entity, or permit another entity to merge into the Borrower, or acquire all or substantially all the properties or assets of any other Person; or

(3) Enter into any arrangement, directly or indirectly, with any person whereby the Borrower shall sell or transfer any property, real, personal or mixed, and used and useful in the business of the Borrower, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property which the Borrower intends to use for substantially the same purpose or purposes as the property being sold or transferred.

(b) The Borrower expressly covenants and agrees, and acknowledges the Lender's expressed reliance hereon, that any sale, pledge, encumbrance, contract to sell, assignment or other transfer of any equity interest in the Borrower or any other transaction, including without limitation the liquidation or dissolution of the Borrower, or the merger or consolidation of the Borrower with any other person, (whether any of the foregoing occurs in a single transaction or in multiple related or unrelated transactions), without the Lender's consent, whereby the legal or beneficial ownership interest in the Borrower are changed shall be treated as a transfer of the properties and assets of the Borrower in violation of this *Section 6.02*.

#### **SECTION 6.03 Investments, Loans.**

The Borrower will not purchase or hold beneficially any stock, other securities or evidences of indebtedness of, or make or permit to exist any loans or advances to, or make any investment or acquire any interest whatsoever in, any other Person except that the Borrower may invest in any of the following if they mature within five years from the date of acquisition thereof: (a) readily marketable direct obligations issued or guaranteed by the United States of America or an agency thereof, (b) certificates of time deposit issued by commercial banks of recognized standing organized under the laws of, and operating in, the United States of America or one of the States of the United States and having a combined paid-in-capital and paid-in surplus of not less than \$10,000,000 in the

case of each such bank, and (c) securities rated at least Prime-1 by Moody's Investors Service, Inc, or A-1 by Standard & Poor's Corporation (or having a comparable rating by another rating service of comparable standing).

**SECTION 6.04 General Negative Covenants.**

The Borrower will not

- (a) engage in any non-related business other than that in which the Borrower is now engaged, or make any other material change in the manner in which the Borrower conducts the Borrower's business;
- (b) enter into any transaction which materially and adversely affects the Borrower's ability to repay the Note;
- (c) materially change the Borrower's legal structure.

**SECTION 6.05 501(c)(3) Status.**

The Borrower will not take any action or engage in any activities materially different from the purposes, activities and methods of operation that formed the basis for the determination by the IRS that the Borrower is a corporation described in Section 501(c)(3) of the Code. The Borrower will not take any action or omit to take any action which would impair its status as a tax-exempt organization under Section 501(c)(3) of the Code.

**ARTICLE 7**

**Events of Default**

As used in this Agreement, the term "Event of Default" shall mean, so long as the Note remains outstanding, the occurrence or happening of any one or more of the following events, circumstances or conditions:

- (a) The Borrower fails or refuses to make any scheduled payment of principal or interest on the Note;  
or
- (b) The Borrower fails to observe and perform any covenant, condition or agreement on the part thereof to be observed or performed pursuant to this Agreement (other than a covenant, condition or agreement a default in the performance or a breach of which is elsewhere in this Section specifically described); or
- (c) Any warranty, representation or other statement by or on behalf of the Borrower contained in this Credit Agreement, or in any instrument furnished in compliance with or in reference to this Credit Agreement, is false or misleading in any material respect (without regard to any knowledge qualifier) and action which eliminates such falsity or misleading character is not completed for a period of thirty days after the Lender has given written notice thereof to the Borrower or the Borrower becomes aware of such false or misleading statement; or
- (d) An Act of Insolvency occurs with respect to any Obligor; or
- (e) Final judgment or judgments for the payment of money in excess of an aggregate of \$100,000 shall be rendered against any Obligor and the same shall remain undischarged for a period of 30 days during which execution shall not be effectively stayed or bonded; or
- (f) Any material provision of any of the Financing Documents shall at any time for any reason cease to be the legal, valid and binding obligation of the Borrower or shall cease to be in full force and effect, or shall be declared to be null and void, or the validity or enforceability thereof shall be contested by the Borrower, or the Borrower shall renounce the same or deny that it has any further liability hereunder or thereunder; or
- (g) The independent certified public accountant retained by the Borrower delivers an opinion on the financial statements of the Borrower which describes conditions which, in the reasonable judgment of the Lender, will have a material adverse effect on the Borrower's ability to continue to operate as a going concern; or

(h) The Borrower shall (i) fail to make any payment or payments of any Debt (other than the Obligations) of the Borrower when due [whether by scheduled maturity (including extensions by the obligee), required prepayment, acceleration, demand or otherwise] and such failure shall continue after the applicable grace period, if any, specified in the agreement or instrument relating to such Debt, or (ii) fail to perform or observe any term, covenant or condition on its part to be performed or observed under any agreement or instrument, if, in either case, the effect of such failure to perform or observe is to accelerate, or to cause the acceleration or mandatory redemption of, the maturity of any Debt (other than the Obligations) of the Borrower in excess of \$50,000; or

(i) The occurrence under any of the Financing Documents of an Event of Default (as defined in any thereof) and the expiration of any applicable grace period; or

(j) The occurrence of an event of default under and as defined in any other agreement or contract under which the Borrower is at any time obligated to the Lender or to the Lender, and the expiration of any applicable grace period with respect thereto; or

(k) The Borrower shall fail to keep in full force and effect any material permit or approval issued by any Governmental Authority and such failure could have, in reasonable judgment of the Lender, a Material Adverse Effect; or

(l) The Borrower acts in any manner that may cause Lender to reasonably believe that such Obligor has engaged in or intends to engage in any suspicious activity as described in or contemplated under the Lender Secrecy Act, the USA Patriot Act, or any other similar or related law, whether now or hereafter in effect, or under any regulation issued pursuant to any such law, or if the name of any Obligor (or a derivation thereof) appears on a list of suspects issued to financial institutions by the Office of Foreign Assets Control, the Financial Crimes Enforcement Network, the Federal Reserve Board, or any other Governmental Authority; or

(m) The revocation or rejection of the renewal of the Borrower's charter from the Texas Department of Education to operate charter schools within the State of Texas.

## **ARTICLE 8**

### **Remedies**

#### **SECTION 8.01 Remedies.**

(a) If any Event of Default shall have occurred and be continuing, the Lender shall have no obligation to make any additional advances hereunder and may exercise any one or more of the following remedies:

(1) it may, upon notice to the Borrower, declare the entire unpaid outstanding principal amount of the Note immediately due under this Agreement to be, and all such amounts shall thereupon become, due and payable to the Lender, without presentment, demand, protest, or other notice of any kind, all of which are expressly waived, anything in this Agreement to the contrary notwithstanding; or

(2) subject to the terms of this Agreement, it may exercise its banker's lien or right of set-off;  
or

(3) it may proceed to protect its rights by suit in equity, action at law or other appropriate proceedings, whether for the specific performance of any covenant or agreement of the Borrower herein contained or in aid of the exercise of any power or remedy granted to the Lender under any of the other Financing Documents.

(b) The Lender may proceed directly against the Borrower hereunder without resorting to any other remedies which it may have and without proceeding against any other security held by the Lender.

**SECTION 8.02 Default Rate of Interest.**

Upon and after the occurrence of an Event of Default, the Note shall bear interest at a per annum rate equal to the lesser of (i) three percent in excess of Prime Rate or (ii) the highest rate of interest permitted under applicable law.

**SECTION 8.03 Agreement to Pay Attorneys' Fees.**

If the Borrower should default under any of the provisions of this Agreement and the Lender should employ attorneys or incur other expenses for the collection of any payments due hereunder or the enforcement of performance or observance of any agreement or covenant on the part of the Borrower herein contained, the Borrower will on demand therefor pay to the Lender the reasonable fees of such attorneys and such other reasonable expenses so incurred.

**SECTION 8.04 Waivers by Lender**

(a) If any agreement contained in this Agreement should be breached by the Borrower and thereafter waived by the Lender, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder.

(b) Neither any failure nor any delay on the part of the Lender in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise or the exercise of any other right, power or privilege.

**SECTION 8.05 Remedies Subject to Applicable Law.**

All rights, remedies and powers provided by this Article may be exercised only to the extent the exercise thereof does not violate any applicable provision of law in the premises, and all the provisions of this Article are intended to be subject to all applicable mandatory provisions of law which may be controlling in the premises and to be limited to the extent necessary so that they will not render this Agreement invalid or unenforceable.

**SECTION 8.06 Waiver by Borrower.**

The Borrower hereby waives, as to the enforcement of this Agreement, (i) all rights of exemption that it may have under the constitution and laws of the State or any other state as to any levy on and sale of property, (ii) presentation and demand for payment (or protest of nonpayment) of the Note or other Obligations or any part thereof, and (iii) until the Obligations have been fully paid, any rights of subrogation it may have against others by reason of performance under this Agreement.

**SECTION 8.07 Continuance of Proceedings.**

In case the Lender shall proceed to invoke any right, remedy or recourse permitted hereunder and shall thereafter elect to discontinue or abandon the same for any reason, the Lender shall have the unqualified right so to do and, in such event, the Borrower and the Lender shall be restored to their former positions with respect to the Note or other Obligations, and otherwise, and the rights, remedies, recourse and powers of the Lender hereunder shall continue as if the same had never been invoked.

**ARTICLE 9**

**Provisions of General Application**

**SECTION 9.01 Notice.**

(a) Any request, demand, authorization, direction, notice, consent, waiver or other document provided or permitted by this Agreement to be made upon, given or furnished to, or filed with, the Borrower or the Lender shall be sufficient for every purpose hereunder if in writing and (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, at the address specified below, (ii) mailed by first-class, registered or certified mail, postage prepaid, addressed as specified below. The hand delivery and mailing address for the parties are as follows:

Addresses of the Borrower and the Lender are as follows:

Borrower:

South Texas Educational Technologies, Inc.  
221 N. Main Street  
McAllen, Texas 78504  
Attn: Alim Ansari or Superintendent

Lender:

Regions Bank  
c/o Oscar Davis  
1717 McKinney Avenue, Suite 1100  
Dallas, Texas 75202

With a copy to:

Michael Tuttle, Esq.  
Tuttle Law Firm  
127 N. Alamo Road  
Alamo, Texas 78516

With a copy to:

David B. Ringelstein II, Esq.  
Balch & Bingham LLP  
1901 6<sup>th</sup> Avenue North, 15<sup>th</sup> Floor  
Birmingham, Alabama 35203

(b) Any of such parties may change the address or number for receiving any such notice or other document by giving notice of the change to the other parties named in this Section.

(c) Any notice or other document shall be deemed delivered when actually received by the party to whom directed (or, if such party is not an individual, to an officer or other legal representative of the party) at the address specified pursuant to this Section, or, if sent by telecopy, upon confirmation of receipt at the number specified pursuant to this Section, or, if sent by mail, three days after such notice or document is deposited in the United States mail, first class registered or certified mail, postage prepaid, addressed as provided above.

**SECTION 9.02 Successors and Assigns.**

Whenever in this Agreement any party hereto is referred to, such reference shall be deemed to include the successors and assigns of such party, except that the Borrower may not assign or transfer this Agreement without the prior written consent of the Lender; and all covenants, promises and agreements by or on behalf of the Borrower which are contained in this Agreement shall bind the Borrower's successors and assigns and shall inure to the benefit of the successors and assigns of the Lender.

**SECTION 9.03 Costs and Indemnification.**

(a) The Borrower shall, subject to the following sentence, promptly reimburse the Lender for any and all reasonable costs, out-of-pocket expenses and attorneys' fees which the Lender may incur in connection with (1) the preparation of this Agreement (whether or not the transactions contemplated by this Agreement shall be consummated) and all other documentation related to the Loan, (2) the making of the Loan, (3) the enforcement of the rights of the Lender in connection with this Agreement including but not limited to, the reasonable fees and disbursements of counsel to the Lender, (4) the protection or perfection of the Lender's rights and interest hereunder, including, but not limited to, the cost of filing financing statements, continuation statements and termination statements, (5) the exercise by or for the Lender of any of the rights or powers herein conferred upon the Lender and (6) in the prosecution or defense of any action or proceeding by or against the Lender or the Borrower, any Obligor, or any of them, concerning any matter arising out of, connected with or related to this Agreement or any of the Obligations. Notwithstanding the foregoing, the Borrower shall not be required to reimburse the Lender to the extent of any costs, expenses or fees occasioned by the Lender's gross negligence or willful misconduct.

(b) The Borrower hereby indemnifies and holds the Lender harmless from and against any and all claims, damages, losses, liabilities, costs or expenses which the Lender may incur or which may be claimed against the Lender by any person or entity by reason of or in connection with the execution and delivery or transfer of, or payment or failure to make lawful payment under, the Loan; provided, however, that the Borrower shall not be

required to indemnify the Lender pursuant to this *Section 9.03* for any claims, damages, losses, liabilities, costs or expenses to the extent caused by (1) the Lender's willful misconduct or gross negligence in determining whether documents presented under the Loan comply with the terms of the Loan or (2) the Lender's willful failure to make lawful payment under the Loan after the presentation to it of a draft and certificate strictly complying with the terms and conditions of the Loan. Nothing in this *Section 9.03* is intended to limit the Borrower's obligations contained in this Agreement. Without prejudice to the survival of any other obligation of the Borrower hereunder, the indemnities and obligations of the Borrower contained in this *Section 9.03* shall survive the payment in full of amounts payable pursuant herein and the termination of the Loan.

**SECTION 9.04 Governing Law.**

(a) This Agreement, and any other documents executed in connection herewith or related hereto shall be construed in accordance with and governed by the laws of the State.

(b) The Note shall be governed as provided therein.

**SECTION 9.05 Non-Waiver.**

Neither any failure nor any delay on the part of the Lender in exercising any right, power or privilege under this Agreement shall operate as a waiver thereof, nor shall a single or partial exercise thereof preclude any other or further exercise or the exercise of any other right, power or privilege.

**SECTION 9.06 Modification; Amendment.**

No modification, amendment or waiver of any provision of this Agreement, and no consent to any departure by the Borrower therefrom, shall be effective unless the same shall be in writing and signed by the Lender, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. No notice to or demand on the Borrower in any case shall entitle the Borrower to any other or further notice or demand in the same, similar or other circumstances.

**SECTION 9.07 Set-off.**

Upon the occurrence and during the continuance of any Event of Default, the Lender is hereby authorized at any time and from time to time, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other indebtedness at any time owing by the Lender to or for the credit or the account of the Borrower against any and all of the obligations of the Borrower now or hereafter existing under this Agreement, irrespective of whether or not the Lender shall have made any demand under this Agreement and although such obligations may be unmaturing. The Lender agrees promptly to notify the Borrower before and after any such set-off and application (which notice may, but is not required to, be in writing), provided that the failure to give either of such notices shall not affect the validity of such set-off and application. The rights of the Lender under this *Section 9.07* are in addition to all other rights and remedies (including, without limitation, other rights of set-off or pursuant to any banker's lien) which the Lender may have.

**SECTION 9.08 Severability.**

Any provision of this Agreement or any other loan document to which the Borrower is or is to be a party which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or thereof or affecting the validity or enforceability of such provision in any other jurisdiction.

**SECTION 9.09 Counterparts.**

This Agreement may be executed in two or more counterparts, each of which shall constitute an original, but when taken together shall constitute but one agreement, and any party may execute this Agreement by executing any one or more of such counterparts.

**SECTION 9.10 Authorized Signature.**

Until the Lender is notified by the Borrower to the contrary, the signature upon this Agreement or upon any other document of an officer of the Borrower shall bind the Borrower and be deemed to be the act of the Borrower affixed pursuant to and in accordance with resolutions duly adopted by the Borrower's board of directors and shareholders.

**SECTION 9.11 Consent to Jurisdiction, Service, Waiver of Jury Trial.**

(a) Subject to the application of Section 9.16 below, the Borrower irrevocably (1) acknowledges that this Agreement will be accepted by the Lender and performed by the Borrower in the State of Texas; (2) submits to the jurisdiction of each state or federal court sitting in Dallas, Texas (collectively, the "Courts") over any suit, action or proceeding arising out of or relating to this Agreement or any of the other Financing Documents (individually, an "Agreement Action"); (3) waives, to the fullest extent permitted by law, any objection or defense that the Borrower may now or hereafter have based on improper venue, lack of personal jurisdiction, inconvenience of forum or any similar matter in any Agreement Action brought in any of the Courts; (4) agrees that final judgment in any Agreement Action brought in any of the Courts shall be conclusive and binding upon the Borrower and may be enforced in any other court to the jurisdiction of which the Borrower is subject, by a suit upon such judgment; (5) consents to the service of process on the Borrower in any Agreement Action by the mailing of a copy thereof by registered or certified mail, postage prepaid, to the Borrower's Registered Agent at the Borrower's address designated in or pursuant to **Section 9.01**; (6) agrees that service in accordance with Section 9.11(5) shall in every respect be effective and binding on the Borrower to the same extent as though served on the Borrower in person by a person duly authorized to serve such process; and (7) **AGREES THAT THE PROVISIONS OF THIS SECTION, EVEN IF FOUND NOT TO BE STRICTLY ENFORCEABLE BY ANY COURT, SHALL CONSTITUTE "FAIR WARNING" TO THE BORROWER THAT THE EXECUTION OF THIS AGREEMENT MAY SUBJECT THE BORROWER TO THE JURISDICTION OF EACH STATE OR FEDERAL COURT SITTING IN DALLAS COUNTY, TEXAS WITH RESPECT TO ANY AGREEMENT ACTIONS, AND THAT IT IS FORESEEABLE BY THE BORROWER THAT THE BORROWER MAY BE SUBJECTED TO THE JURISDICTION OF SUCH COURTS AND MAY BE SUED IN THE STATE OF TEXAS IN ANY AGREEMENT ACTIONS.** Nothing in this Section shall limit or restrict the right of the Lender to serve process or bring Agreement Actions in manners and in courts otherwise than as herein provided.

(b) Subject to the application of Section 9.16 below, **TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE BORROWER, AND THE BANK AGREE TO WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY AND ALL CLAIMS OR CAUSES OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS. IT IS HEREBY ACKNOWLEDGED THAT THE WAIVER OF A JURY TRIAL IS A MATERIAL INDUCEMENT FOR THE BORROWER AND THE BANK TO ENTER INTO THIS AGREEMENT AND THE ISSUANCE OF THE LOAN AND THAT THE EXECUTION AND DELIVERY OF THIS AGREEMENT BY THE BORROWER AND THE BANK IS MADE IN RELIANCE UPON SUCH WAIVER. THE BORROWER AND THE BANK EACH FURTHER WARRANT AND REPRESENT THAT SUCH WAIVER HAS BEEN KNOWINGLY AND VOLUNTARILY MADE BY EACH PARTY HERETO, FOLLOWING CONSULTATION WITH THEIR RESPECTIVE LEGAL COUNSEL.**

(c) The waivers made pursuant to this Section shall be irrevocable and unmodifiable, whether in writing or orally, and shall be applicable to any subsequent amendments, renewals, supplements or modifications of this Agreement. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**SECTION 9.12 Article and Section Titles.**

The section titles contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.



**SECTION 9.13 Obligations of Borrower Absolute.**

(a) The obligations, covenants and agreements of the Borrower under this Agreement shall be absolute, unconditional and irrevocable, and the Borrower hereby separately covenants and agrees to timely pay in full in strict accordance herewith, all amounts which may become due and owing hereunder and to timely observe and perform all other agreements and covenants to be observed and performed by the Borrower hereunder, such payment, observance and performance to be made hereunder under all circumstances whatsoever, including, without limitation, the following:

- (1) any lack of validity or enforceability of any Financing Documents; provided, however, that no interest will be payable with respect to the Loan for the period after the Loan is determined to be invalid or unenforceable;
- (2) any amendment or waiver of or any consent to departure from all or any of the Financing Documents, other than this Agreement and the Note;
- (3) the existence of any claim, set-off, defense or other rights which the Borrower may have at any time against any Person, whether in connection with this Agreement, the Note or any of the other Financing Documents, or any unrelated transaction;
- (4) any statement or any other document presented under the Loan proves to be forged, fraudulent, invalid or insufficient in any respect or any statement therein proves to be untrue or inaccurate in any respect whatsoever;
- (5) advances by the Lender under the Loan against presentation of a draft or certificate which does not comply with the terms of the Loan, provided such payment shall not have constituted negligence or willful misconduct by the Lender; and
- (6) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing, provided the same shall not have constituted negligence or willful misconduct by the Lender.

(b) No act of commission or omission of any kind at any time on the part of the Lender in respect of any matter whatsoever shall in any way affect or impair any right, power or benefit of the Lender under this Agreement and, to the extent permitted by applicable law, no setoff, claim, reduction, diminution of any obligation, or any defense of any kind or nature which the Borrower may have against the Lender shall be available against the Lender in any suit or action brought by the Lender to enforce any right, power or benefit under this Agreement. Notwithstanding the foregoing, nothing contained herein shall abrogate any right of the Borrower to maintain an affirmative defense.

**SECTION 9.14 Duration.**

All representations and warranties of the Borrower contained herein or made in connection herewith shall survive the making of and shall not be waived by the execution and delivery of this Agreement, any investigation by the Borrower or the approval of any disbursements or honoring of any drawings under the Loan. All covenants and agreements of the Borrower contained herein shall continue in full force and effect from and after the date hereof so long as it may borrow hereunder and until payment in full of the Note and all other Obligations.

**SECTION 9.15 Preferences.**

To the extent that the Lender receives any payment from or on behalf of the Borrower which payment or any part thereof is subsequently:

- (a) invalidated;
- (b) declared to constitute a fraudulent conveyance or preferential transfer;

(c) set aside; or

(d) required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law or equitable cause, then, to the extent of such payment received, the obligations or part thereof intended to be satisfied shall be revived and continue in full force and effect, as if such payment has not been received by the Lender.

**SECTION 9.16 Arbitration; Preservation of Remedies.**

(a) Subject to the provisions of the next paragraph below, any controversy, claim, dispute or disagreement arising out of, in connection with or relating to (1) the negotiation, execution, collateralization, administration, repayment, modification, extension or collection of this Agreement or the Note or any agreement or instrument relating to this Agreement or the Note, or (2) an alleged tort relating in any way to this Agreement, the Note, or any agreement or instrument relating thereto, shall be settled by arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association (the "Rules"). The "Expedited Procedures" as provided in those Rules shall apply in any dispute where the aggregate of all claims and the aggregate of all counterclaims each is an amount less than \$500,000. Judgment upon any award rendered by the arbitrator(s) in any such arbitration may be entered in any Court having jurisdiction thereof. Any demand for arbitration under this Agreement shall be made no later than the date when any judicial action upon the same matter would be barred by any applicable statute of limitations. The locale of any arbitration proceedings under this Agreement shall be in Dallas, Texas unless the Borrower and the Lender mutually agree otherwise. The Borrower and the Lender specifically acknowledge and agree that this Agreement evidences, and the Note is, a "transaction involving commerce" under the Federal Arbitration Act, and the Borrower and the Lender hereby waive and relinquish any right to claim otherwise.

(b) Neither anything contained in the preceding paragraph nor the exercise of any right to arbitrate shall limit the right of any party to (1) foreclose against any real or personal property collateral by the exercise of the power of sale under a deed of trust, mortgage, security deed, deed to secure debt, or other security agreement or instrument or under applicable law; (2) exercise any self-help remedies such as setoff or repossession; or (3) obtain provisional or ancillary remedies such as replevin, injunctive relief, attachment, or appointment of a receiver from a court having jurisdiction, before, during or after the pendency of any arbitration proceeding. This arbitration provision shall not be interpreted to require that any such remedies be stayed, abated or otherwise suspended pending any arbitration or request for arbitration. The exercise of a remedy shall not be deemed a waiver of either party's right to resort to arbitration.

**IN WITNESS WHEREOF**, the Borrower has caused this Agreement to be executed in its name, by officer or representative thereof duly authorized thereunto, and the Lender has caused this Agreement to be executed in its name and on its behalf by an officer thereof duly authorized thereunto, all as of the day and year first above written.

**SOUTH TEXAS EDUCATIONAL TECHNOLOGIES,  
INC.**

By \_\_\_\_\_  
Alim Ansari, Board President

**REGIONS BANK**, as lender and secured party

By \_\_\_\_\_

Its \_\_\_\_\_

EXHIBIT A

(Form of Note)

ACAPS No.: 20161621158450  
Preparer: David B. Ringelstein II  
Balch & Bingham, LLP  
205-227-8782

**PROMISSORY NOTE, SERIES 2016-A**

**[\$150,000].00**

**August 26, 2016**

**Maturity Date: August 26, 2021**

FOR VALUE RECEIVED, on or before the Maturity Date, the undersigned SOUTH TEXAS EDUCATIONAL TECHNOLOGIES, INC., a Texas non-profit corporation (the "Borrower"), promises to pay to the order of REGIONS BANK, an Alabama banking corporation (the "Lender"; the Lender, and any subsequent holder[s] hereof, being hereinafter referred to collectively as the "Holder"), the principal sum of **ONE HUNDRED FIFTY THOUSAND DOLLARS AND NO/100THS (\$150,000.00)**, and to pay interest on the principal balance hereof, from the date advanced until paid, at the rate of interest provided for in that certain Credit Agreement of even date between the Lender and the Borrower (as the same may be amended, restated, supplemented, extended, renewed, replaced or otherwise modified from time to time, the "Credit Agreement"); *provided that* in no event shall the interest and loan charges payable in respect of the indebtedness evidenced hereby exceed the maximum amounts from time to time allowed to be collected under applicable law. If not sooner paid, the principal indebtedness evidenced hereby and all accrued but unpaid interest thereon shall be due at the Maturity Date set forth above. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Credit Agreement.

This Note is issued by the Borrower pursuant to the Credit Agreement and the indebtedness evidenced by this Note is entitled to the benefits and security of the Credit Agreement and the other Financing Documents. This Note shall be governed by and construed in accordance with the Credit Agreement. The outstanding principal balance shall not exceed [\$150,000].00.

This Note is being issued to evidence indebtedness owed by Borrower in favor of Lender which will be secured on a parity basis with the \$1,745,000 Special Project Revenue Note, Series 2016-A, issued by the Crawford Education Finance Authority (South Texas Educational Technologies, Inc. Project) (the "Tax-Exempt Note"), issued pursuant to the terms of the Master Indenture, and any additional Notes (as defined in the Master Indenture) hereafter issued. This Note shall constitute a parity obligation within the meaning of the Master Indenture and the Borrower shall issue a Master Trust Indenture Promissory Note, Series 2016-B (the "Taxable MTI Note") in favor of the Lender to evidence the security pledged as collateral, on a para passu basis with the Tax-Exempt Note and any additional Obligations (as defined in the Master Indenture hereafter issued), in favor of this Note by virtue of the Master Indenture.

Principal and interest payable in respect of the indebtedness evidenced by this Note shall be due and payable at the times and in the manner specified in the Credit Agreement, which are as follows:

(i) subject to the proviso below, on September 26, 2016, and on the 26<sup>th</sup> day of each month thereafter, through and including July 26, 2021, equal payments of principal and interest of the principal advanced hereon and interest calculated at the Applicable Rate subject to adjustment as set forth in the Credit Agreement, each such payment to be applied first to accrued interest then to the reduction of principal; and

(ii) subject to the proviso below, on the Maturity Date set forth above, all remaining principal, plus any and all other amounts owing under the Credit Agreement, together with accrued but unpaid interest on the aggregate amount of principal outstanding pursuant to the Credit Agreement;

provided, however, and separate and apart from, and in addition to, any Events of Default set forth in the Credit Agreement, in the event that any of Borrower's existing charter(s) to operate an enrollment charter school facility(ies) are not renewed by the Texas Education Agency prior to the expiration of said respective charter, then

Lender shall have the ability to require Borrower to immediately pay all principal advanced hereon and outstanding plus accrued interest (through the date of the mandatory put) on this Note upon not less than thirty (30) days written notice (referred to as a "Put Notice") to Borrower. If Lender provides Borrower said Put Notice, Borrower agrees to immediately pay all amounts of outstanding principal and accrued but unpaid interest.

For purposes of the foregoing, the following definitions shall apply:

Applicable Rate shall mean 5.20% per annum.

Borrower shall refer to South Texas Educational Technologies, Inc., and its successors.

Lender shall refer to Regions Bank, and its successors.

If any payment is not made when due, the Borrower agrees to pay the Lender a late charge as set forth in the Credit Agreement. Any payments due on a day which is not a Business Day shall be made on the next succeeding Business Day.

Upon the occurrence of an Event of Default, the entire outstanding principal balance of the indebtedness evidenced hereby, together with all accrued and unpaid interest thereon, may be declared, and immediately shall become, due and payable in full, as provided in the Credit Agreement.

The Borrower may, on any date, pay in advance the entire unpaid principal amount of the Loan or any lesser portion or portions thereof by paying to the Lender the principal amount to be prepaid, plus interest accrued on such principal amount to the date of such prepayment; provided, however, if the prepayment is derived from funds from a third-party financial institution or bond underwriter other than Regions Bank and/or its affiliates, Borrower shall owe a 1% prepayment penalty on the amount of principal prepaid (said prepayment is in addition to any other amounts which may be owed by Borrower in connection with terminating any swap agreements separately entered into by Borrower).

The Borrower does hereby waive presentment for payment, demand, protest and notice of demand, notice of protest and notice of nonpayment. Anything in this Note, the Credit Agreement, or any of the other Financing Documents to the contrary notwithstanding, in no event whatsoever, whether by reason of advancement of principal proceeds, acceleration of the maturity of the unpaid balance of the Loan or otherwise, shall the interest and loan charges agreed to be paid to the Holder for the use of the money advanced or to be advanced hereunder exceed the maximum amounts collectible under applicable laws in effect from time to time. It is understood and agreed by the Borrower and the Lender that, if for any reason whatsoever the interest or loan charges paid or contracted to be paid by the Borrower in respect of the indebtedness evidenced hereby shall exceed the maximum amounts collectible under applicable laws in effect from time to time, then *ipso facto*, the obligation to pay such interest or loan charges shall be reduced to the maximum amounts collectible under applicable laws in effect from time to time, and any amounts collected by the Holder that exceed such maximum amounts shall be applied to the reduction of the principal balance of the Loan or refunded to the Borrower so that at no time shall the interest or loan charges paid or payable in respect of the indebtedness evidenced hereby exceed the maximum amounts permitted from time to time by applicable law.

This Note is intended as a contract under and shall be construed and enforceable in accordance with the laws of the State of Texas, without reference to the conflicts or choice of law principles thereof, except to the extent that federal law may be applicable to determining the maximum amount of interest that may be charged by the Lender in respect of the indebtedness evidenced hereby.

**IN WITNESS WHEREOF**, the undersigned Borrower has caused this Note to be executed by its duly authorized officer or other representative as of the date first above written.

**BORROWER:**

**SOUTH TEXAS EDUCATIONAL TECHNOLOGIES,  
INC.**

By: \_\_\_\_\_  
Alim Ansari  
Board President

**CERTIFICATE OF AUTHENTICATION**

This is one of the Related Notes referred to in the Master Indenture.

Date of Authentication: August 26, 2016

REGIONS BANK, as Master Trustee, or its  
agent

By: \_\_\_\_\_  
Authorized Signature



## Schedule 3.02

### CONDITIONS AND REQUIREMENTS OF ADVANCE

#### **A. Conditions to First Advance.**

The Lender shall have received not less than five Business Days before the date of the first Advance (or such other date or dates as shall be satisfactory to the Lender in its sole discretion), unless otherwise waived by the Lender, the following documents, which must be satisfactory in form and content to the Lender in its sole discretion:

(a) **Title Insurance.** The Lender shall be furnished a mortgagee's title insurance policy in the amount of the Note on the standard ALTA form (the "Title Policy"). The Title Policy shall be issued by a title insurance company acceptable to Lender and shall insure the validity of the first mortgage on the property described therein, subject only to such exceptions as may be approved in writing by Lender. Further, the Lender may, at its sole option and at Borrower's expense, require the following affirmative endorsements: (i) endorsement for affirmative coverage against disturbance of the surface in the exercise of any mining or mineral rights not consented to by Lender; (ii) same land - survey endorsement; and (iii) such other endorsements as may be appropriate under the circumstances. The Title Policy shall contain no general exceptions for (A) matters that would be revealed by a survey, or (B) mechanics' and materialmens' liens. The Title Policy shall name Lender as mortgagee payable, and shall be satisfactory to Lender as to form and substance. Prior to the date of each Advance of the proceeds of the Note, Lender may require, at Borrower's expense, a "date-down endorsement" to the Title Policy to insure that no mechanics' and materialmens' or other liens have been filed.

(b) **Environmental Assessment.** Lender shall receive and approve a Phase I Environmental Assessment of the Project which has been prepared by an environmental engineering firm approved by the Lender and which is performed in accordance with the most recent promulgated standards of the American Society for Testing and Materials ("ASTM"s") for Environmental Site Assessments for Commercial Real Estate (ASTM Designation E 1527 and 1528) or other form(s) of evidence acceptable to Lender providing evidence that the Property subject to the Mortgage do not contain any material environmental risks or hazards. At a minimum, this assessment shall include, without limitation, an identification of all potential sources of environmental concern, the presence of hazardous or toxic waste, improper storage, treatment or disposal of hazardous or toxic waste, areas of potential contamination, the past or present presence of underground storage tanks, the presence of wetlands, prior and adjacent land use, together with a review of all pertinent federal, state and local agency data relating to the Project and adjacent properties. The report of the Phase I Environmental Assessment shall be prepared in accordance with the form and instructions provided by the Lender. If in the Lender's sole discretion it is determined that it is necessary to conduct soil, water or asbestos sampling and analysis, such sampling (also referred to as a Phase II Environmental Assessment) shall be conducted and a report shall be prepared and addressed to the Lender which sets forth the results of such sampling. All environmental reports must be acceptable to the Lender. The Lender shall have no obligations hereunder if it is unsatisfied with the results and conclusions of the foregoing.

(c) **Plans and Specifications.** The Lender shall receive a copy of the final plans and specifications for the Project, certified by the architect for the Project and approved by the Lender. The plans and specifications shall not be changed or added to without the prior written consent of the Lender, if such change or addition constitutes a Material Change.

(d) **Governmental Approvals.** The Lender shall receive copies of all permits, licenses, certificates, authorizations and other governmental approvals required for the commencement of construction of the Project and written evidence that the intended use of the Project is in accordance with all applicable zoning, planning and building restrictions.

(e) **Development Budget; Sources and Uses of Funds Statement.** The Lender shall receive the Development Budget for the Project and a sources and uses of funds statement for the Project, together

with a detailed breakdown of all hard construction costs submitted on AIA Form G702-703 or other form acceptable to the Lender.

(f) Contracts. Fully executed counterparts of all contracts with the seller of the real property constituting the Project.

(g) Representations and Warranties. On the date of each Advance hereunder, the representations and warranties set forth herein shall be true and correct on and as of such date with the same effect as though such representations and warranties had been made on and as of such date, except to the extent that such representations and warranties expressly relate to an earlier date.

(h) No Default. On and as of the date hereof and on and as of the date of each Advance hereunder, the Borrower shall be in compliance with all the terms and provisions set forth in this Credit Agreement on its part to be observed or performed, and no Event of Default, nor any event which upon notice or lapse of time or both would constitute such an Event of Default, shall have occurred and be continuing.

(i) Other Payments. The Lender shall have received, no less than five Business Days before the date of each Advance, the proceeds of which will be used in whole or in part to pay development costs including, without limitation, closing costs, permits and governmental fees, legal fees, engineering fees, and construction interest, (or to reimburse the Borrower for such a payment), an invoice, bill or statement describing in reasonable detail the purpose for which such payment is made and a statement designating the category of the Development Budget to which the payment is to be charged.

(j) Updated Sources and Uses of Funds Statement; Note to Pay Excess Costs. The Lender shall have received, no less than five Business Days before the date of each Advance subsequent to the first Advance, an updated sources and uses of funds statement in form and of content satisfactory to the Lender. Such statement must demonstrate, and the Lender must be satisfied, that the difference between the amount of the Project Fund that shall not have then been advanced and the total amount thereof that shall have been advanced, as of the date of such statement, is sufficient to pay all remaining Project Costs in accordance with the Plans and the Development Budget. If the Lender determines, at any time or from time to time, in the exercise of its sole reasonable discretion, that the remaining expected Project Costs exceed then undisbursed amount of the Project Fund, the Lender shall have no further obligation to make any Advance under the Project Fund until the Borrower shall have, to the satisfaction of the Lender, made a deposit with the Lender in an amount sufficient to pay all Project Costs in excess of then available amount of the Project Fund or agreed to pay directly all Project Costs until such time as then available amount of the Project Fund is sufficient to pay all remaining Project Costs.

(k) Retention of Counsel or Consultants. The Lender may, in its sole discretion, and at the expense of the Borrower, which expenses shall not be unreasonable, retain legal counsel or other consultants to review the progress of construction of the Project and any documents and information delivered to the Lender in connection with an Advance.

(l) Status of Project. On the date of each Advance hereunder, (1) the Project shall not have been materially damaged by fire, wind, flood, vandalism or other casualty, (2) neither the Project nor any portion thereof shall be subject to condemnation proceedings or negotiations for sale in lieu thereof and (3) the Lender must be reasonably satisfied that the Project is completed to an extent appropriate for the amount of Advances made hereunder through such date and that all documents submitted to the Lender are in good order and comply with the terms and conditions of this Credit Agreement.

(m) Additional Evidence. Such additional legal opinions, certificates, proceedings, instruments and other documents as the Lender or its counsel may reasonably request to evidence (i) compliance by the Borrower with legal requirements, (ii) the truth and accuracy, as of the date of delivery of the Note of the representations of the Borrower contained in the Financing Documents, and (iii) the due performance or satisfaction by the Borrower, at or prior to the date of delivery of the Note, of all

agreements then required to be performed and all conditions then required to be satisfied by the Borrower pursuant to the Financing Documents.

**B. Conditions to Subsequent Advances from Project Fund**

(a) Survey. Within forty-five (45) days of closing, Lender shall be furnished and shall have approved an accurate survey of the Project, certified within 60 days of closing by a registered surveyor acceptable to the Lender and to the title insurance company, showing the location of all present and proposed improvements, boundaries, means of public ingress and egress, building setback lines, rights-of-way, easements and encroachments. The survey must contain a certification as to whether or not the Project lies within a designated flood hazard area. If any portion of the Project is located in a flood hazard area, then Borrower is obligated to provide evidence of flood insurance acceptable to Lender. The survey shall be prepared in accordance with the instructions provided by Lender, unless otherwise approved by Lender.

(b) Status of Project. On the date of each Advance hereunder, (1) the Project shall not have been materially damaged by fire, wind, flood, vandalism or other casualty, (2) neither the Project nor any portion thereof shall be subject to condemnation proceedings or negotiations for sale in lieu thereof and (3) the Lender must be reasonably satisfied that the Project is completed to an extent appropriate for the amount of Advances made hereunder through such date and that all documents submitted to the Lender are in good order and comply with the terms and conditions of this Agreement..

(c) Loan to Value. At no time shall Lender be obligated to make an Advance from the Project Fund in the event said Advance would result in the aggregate amount of principal having been advanced on the Series 2015-A Note exceeding 85% of the appraised value (as reviewed by a third-party appraisal reviewer chosen by Lender) of the Project. At any time 85% of the appraised value (as reviewed by a third-party appraisal reviewer chosen by Lender) is less than the aggregate amount of principal advanced on the Series 2015-A Note, then Borrower shall be required to pay down principal such that said amount of outstanding principal is not more than 85% of the appraised value of the Project.

(d) Additional Evidence. Such additional legal opinions, certificates, proceedings, instruments and other documents as the Lender or its counsel may reasonably request to evidence (i) compliance by the Borrower with legal requirements, (ii) the truth and accuracy, as of the date of delivery of the Note of the representations of the Borrower contained in the Financing Documents, and (iii) the due performance or satisfaction by the Borrower, at or prior to the date of delivery of the Note, of all agreements then required to be performed and all conditions then required to be satisfied by the Borrower pursuant to the Financing Documents.

**Appendix A to Schedule 3.02**

To: Regions Bank, as Lender under Credit Agreement  
Dated June 16, 2016 (the "Credit Agreement") between  
Regions Bank, as lender, and South Texas Educational Technologies, Inc. No. \_\_\_\_\_

A requisition or payment request is hereby made to you, as holder of the Project Fund under the Credit Agreement for the payment of

\$ \_\_\_\_\_ to \_\_\_\_\_  
(Name of person, firm or corporation to whom payment is to be made)

whose address is \_\_\_\_\_

\_\_\_\_\_

for payment of the following Project Costs:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_.

The undersigned does hereby certify that the purpose for which such payment is to be made is one for which Project Fund moneys are authorized under the Credit Agreement to be expended and that no Event of Default has occurred under the Credit Agreement.

This \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SOUTH TEXAS EDUCATIONAL  
TECHNOLOGIES, INC.**

By \_\_\_\_\_

Its \_\_\_\_\_

Payment Approved: **REGIONS BANK**, as lender and secured party

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

Its: \_\_\_\_\_

Date: \_\_\_\_\_