

Amendment to Lease Purchase Agreement

This Amendment to Lease Purchase Agreement (“**Amendment**”) is entered into by and between **MELD, LLC**, a New Mexico limited liability company (“**MELD**”), **21st Century Public Academy** (“**21st Century**”), and **Cutler Charitable Foundation**, a New Mexico nonprofit corporation (“**Foundation**”).

Background:

- A. MELD as Lessor and 21st Century as Lessee entered into a Lease Purchase Agreement dated August 9, 2017 (“**Lease**”) related to the lease and purchase of the property at 4300 Cutler Avenue NE, Albuquerque, New Mexico (“**Property**”).
- B. Foundation is a New Mexico nonprofit corporation qualifying under section 501(c)(3) of the Internal Revenue Code, formed for the purpose of providing school facilities for 21st Century.
- C. The Lease has been assigned by MELD to the Foundation based on the terms of the Lease Assignment executed separately and independently from this amendment, and on payment as described below. The terms of the Lease Assignment do not conflict with the terms herein, nor do they add a financial obligation for improvements of buildings or real property beyond what is expressly provided herein.
- D. 21st Century is in need of expanding its school facilities including the construction of additional classrooms and a gymnasium and the Foundation has arranged for financing for of those facilities with Los Alamos National Bank.

NOW, THEREFORE, in consideration of the mutual covenants and agreements of the parties it is hereby agreed as follows:

A. **Purchase Price.** Based upon the additional funds expended by the Foundation, the Purchase Price under the Lease will be \$9,400,217.10. The new amortization for the lease purchase provisions is attached hereto as **Exhibit A**.

B. **Second Mortgage, Promissory Note, Subordination.** The Los Alamos National Bank loan which must be a first mortgage on the Property will be in the sum of \$6,331,000.00. The adjusted purchase price and obligations with respect to the Property at the time of transfer to Foundation is the sum of \$5,748,707.10. The cost for construction of the new facilities is estimated to be \$3,651,510.00 and funds from the Los Alamos National Bank loan will be used for the purpose of completing construction of the new facilities and paying a portion of the purchase price. The foregoing calculation leaves a deficiency in the amount of \$3,069,217.10 between available funds and the amount MELD is owed. MELD agrees to accept a promissory note secured by a second mortgage, subordinate to the first mortgage of Los Alamos National Bank, for an amount of up to the deficiency. The promissory note will bear interest at the rate of 6% per annum, with interest only being paid monthly. The principle of the promissory note

together with all accrued and unpaid interest shall be due and payable eighteen (18) months after the date thereof.

Subordination of the second mortgage by MELD specifically will benefit 21st Century by making proceeds from the Los Alamos National Bank loan available in an amount needed for completion of construction of improvements on the Property rather than requiring those funds to be applied to the purchase price under the Lease.

C. **Department Approval.** The parties acknowledge this Amendment must be approved by the Public Education Department (“PED”). 21st Century and Foundation will immediately take whatever action is necessary to approve this Amendment and shall submit the same to PED for approval as soon as practical. The “**Effective Date**” of this Amendment will be the date on which PED approves this Amendment.

D. **Indebtedness.** Notwithstanding any other provisions of this Amendment, the Lease or the other provisions in the Lease, Lessee’s governing body represents, warrants and covenants that it has not directly or indirectly undertaken, and will not directly or indirectly undertake, Lessor’s debt under any agreement, nor has Lessee pledged, transferred, or granted a security interest in, or assigned to any private third party, public funds, monies, grants or other distributions received, or to be received, by Lessee from or through the state of New Mexico, for the purpose of securing the payment of Lessor’s financial obligations, in violation of Article IX, Section 14 of the New Mexico Constitution, or in violation of Article IX, Section 11 of the New Mexico Constitution.

E. **Effect of Amendment.** To the extent the provisions of this Amendment modify or are in conflict with the Lease Purchase Agreement, the provisions of this Amendment shall control. Otherwise, the Lease Purchase Agreement shall remain in full force and effect.

[Signatures on Following Page]

MELD:

MELD, LLC, a New Mexico limited liability company

By: **DePonte Investments, Inc.**, a New Mexico corporation, its Managing Member

Brent DePonte
Brent DePonte, President

21ST CENTURY:

21st Century Public Academy, a public charter school

By: *Virginia W. Juyll*
Its: *President Governing Board* 06/18/18

FOUNDATION:

Cutler Charitable Foundation, a New Mexico nonprofit corporation

Cathy M. Olson Chief Exec Officer
[Signature] Treasurer 6/18/18
By: *[Signature]* 6/18/18
Its: *[Signature]* 6/18/18