

**PROVINCE OF BRITISH COLUMBIA  
MINISTRY OF EDUCATION**

**CONTRACT AMENDMENT #1**

Contract Number: C12/3300

This AGREEMENT dated for reference the 26<sup>th</sup> day of July, 2011

**BETWEEN:**                    **HER MAJESTY THE QUEEN IN RIGHT OF THE  
PROVINCE OF BRITISH COLUMBIA represented by the  
Minister of Education  
(herein called the "Province")**

**OF THE FIRST PART**

**AND:**                         **THE VIRTUAL SCHOOL SOCIETY  
(herein called the "Recipient")**

**OF THE SECOND PART**

**WITNESS THAT WHEREAS:**

- A. The parties hereto entered in an Agreement dated for reference the 1st day of April, 2011, a copy of which is attached hereto as Appendix "1" (hereinafter called the "Agreement"),
- B. **AND WHEREAS** the parties have agreed to amend the Agreement.


**NOW THEREFORE** in consideration of the covenants and agreements herein contained, the parties agree as follows:

- (1) That Schedule 'A' is deleted and replaced with the attached Schedule 'A2';
- (2) That Schedule 'B' is deleted and replaced with the attached Schedule 'B2'.
- (3) That, in all other respects, the terms and conditions of the Agreement remain unchanged.

The parties hereto have executed this Agreement on the day and year as set out above.

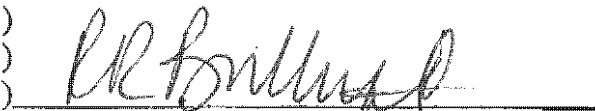
**SIGNED AND DELIVERED** by the  
Recipient or by an Authorized Representative:

GORDAN D. MILNE  
(Print Name of Recipient or Authorized  
Representative)

  
(Signature)

) **SIGNED AND DELIVERED** on  
) behalf of the Province by an authorized  
) representative of the Province.

) Renate Butterfield  
(Print Name of Authorized Representative)

)  
)   
) (Signature)

## **SCHEDULE "A2" - Services**

### **BACKGROUND**

The BC Government announced the creation of a BC Virtual School in the 2006 Throne Speech. The BC Virtual School, operating the LearnNowBC website portal is an alliance of distributed learning providers in BC's Kindergarten to Grade 12 (K-12) education system.

The LearnNowBC website portals was launched in October 2006 as a means of providing students with access to educational choice, flexible options and services that directly supports their achievement. Helping students find courses and schedules that align with their needs and lifestyles in one way that LearnNowBC ("LNBC") adds value to the K-12 education system.

The Virtual School Society's purpose is to:

- Enhance the achievement of students through distributed learning.
- Make British Columbia a leader in online educational programs.
- Promote distributed learning in British Columbia.

The goal of the Virtual School Society is to continue to expand the series available for K-12 students as well as for parents and educators by continually updating offerings for the LearnNowBC.ca users.

### **SERVICES**

In support of the Minister of Education's agreement for delivery of distributed learning with boards of education, the Province will provide a financial contribution to the Recipient to proceed with the following services to the satisfaction of the Province. Under this Agreement, Renate Butterfield, Assistant Deputy Minister (ADM), Business, Technology & Online Services Division, Ministry of Education will represent the Province.

The Recipient will:

- Continue to provide base operations on LearnNowBC.ca (including but not limited to Academic and Career Advising, Distributed Learning Course Finder, and Daily Physical Activity Tracker (Student and Educator)).
- Continue to provide and maintain Elluminate Live! province-wide license on [www.LearnNowBC.ca](http://www.LearnNowBC.ca).
- Continue to provide the Study Center offering tutoring series for the students of British Columbia on [www.LearnNowBC.ca](http://www.LearnNowBC.ca).
- Submit to the Province a series of statistics reports of the services provided on the LearnNowBC site, showing month-over-month trend data highlighting anomalies. Statistics Reports to be submitted to the Province on or before the 30<sup>th</sup> day of each month for the preceding month providing the following detail:

<p><b><u>LearnNowBC</u> Itemize to include:</b></p> <ul style="list-style-type: none"> <li>• The number of students accessing the service.</li> <li>• The number of educators accessing the service.</li> <li>• The number of parents accessing the service.</li> </ul>	<p><b><u>Daily Physical Activity ( DPA) Itemize to include:</u></b></p> <ul style="list-style-type: none"> <li>• The number of schools.</li> <li>• Number of students' DPA logs and number of activities.</li> </ul> <p>Further detail must be available by students and school should the ministry request this information.</p>
<p><b><u>Study Center (Tutoring) Itemize to include:</u></b></p> <ul style="list-style-type: none"> <li>• One to One online tutoring.</li> <li>• Success Checker (Self Assessment).</li> <li>• Charged up for Math and Science (Streaming video).</li> </ul> <p>Where possible show aggregate data according to individual course and supports.</p>	<p><b><u>Course Finder Detail Itemize to include:</u></b></p> <ul style="list-style-type: none"> <li>• Number of views for course finder and detail.</li> <li>• A supplemental report to the number of enrolments that have been processed through the LearnNowBC site.</li> </ul>
<p><b><u>Educator Network - Itemize to include:</u></b></p> <ul style="list-style-type: none"> <li>• Professional Development.</li> <li>• Elluminate Live! Usage and Cyber Safety.</li> </ul>	<p><b><u>Parent Information Network - Itemize to include:</u></b></p> <ul style="list-style-type: none"> <li>• Number of parents accessing the site by service or information section.</li> </ul>
<p><b><u>Early Learning - Itemize to include:</u></b></p> <ul style="list-style-type: none"> <li>• Usage by Professional Development.</li> <li>• Forum usage.</li> </ul>	<p><b><u>Elluminate Usage - Meeting and Attendees Itemize to include:</u></b></p> <ul style="list-style-type: none"> <li>• Usage by Room, Attendee and Recordings.</li> </ul>

- The Ministry may require additional information and statistics from the Recipient if and when requested.
- The Recipient will negotiate for annual portal operational maintenance activities (on or before the end of June 2011), for tutoring series (on or before the end of June 2011), and for annual province –wide Elluminate Licenses (on or before the end of October 2011).

## Infrastructure and Operations Website Management –

- Provide overall website management of the LearnNowBC site. This will cover all issues related to the day-to-day operations and include content updates, online marketing and hosting Infrastructure and monitoring, Server Maintenance and Security.
- Create a planned maintenance schedule. This will be combined with the developed Service Level Agreement to guarantee turnaround times and hosting performance.
- Collaborate with Ministry of Education and all other Stakeholders on content management and complete all website Updates and Changes.

### Application Maintenance and Development

- Manage the maintenance and evolution of LearnNowBC systems to correct faults, to improve performance or other attributes. Work closely with Ministry of Education, boards of education, educators, students, parents and other stakeholder group to enhance and evolve the LearnNowBC portal.

### LearnNowBC Support Desk

- Provide first line application support, problem resolution, incident recording and tracking; problem escalation management; service request scheduling; daily, weekly, monthly and ad-hoc reporting; monitoring and responding to live phone calls, web, email and voicemail. Also, attend meetings with Ministry personnel, Workplace Technology Services (WTS), Provincial Learning Network (PLNet), or the Education Sector, upon request.
- The overall management of the provincial centralized LearnNowBC support desk will follow the developed service levels.

**Table 1 – LearnNowBC Support Desk Priority and Classification Descriptions**

Priority	Classification	Incident Extent
1(One)  (Critical)	LNBC portal is not accessible; there is no work-around or manual process available. Situation indicates a total inability to use the application system or a component of an application system, resulting in a critical impact on the client's operation.  Problem must be resolved immediately and restoration work must continue until trouble is resolved.  All involved parties are expected to work continuously until a priority 1 problem is resolved, or sufficient work has been completed to effect a reduction in the priority rating.	Very high business impact
	LNBC outage affecting the ability of a client and its staff, where there is a limited work-around available. Situation indicates an	

2 (Two)  (High)	<p>ability to use an application, or part of an application, but operation is severely degraded.</p> <p>Problem must be resolved quickly to minimize the impact.</p> <p>Work by all involved parties is expected to continue on a workday basis until a solution is in place.</p>	High business impact
3 (Three)  (Medium)	<p>LNBC outage affecting the ability of a client and its staff, where there is a work-around available. Situation indicates an ability to use the application system without functions that are not critical to overall operations.</p> <p>Problem needs to be resolved within two business days.</p>	Moderate business impact
4 (Four)  (Low)	<p>LNBC outage affecting the ability of a client and its staff, where there is minor impairment and no work-around is necessary. Situation indicates that the problem has been circumvented and does not seriously affecting the client's operations.</p> <p>Problem needs to be resolved within three business days.</p>	Low business impact

**Table 2 – Response & Escalation Time Service Objectives**

Priority	Service Coverage		Response Time		Repair Time	
			Monthly Average	Maximum	Monthly Average	Maximum
1	8:00-18:00	Mon-Fri Except holidays	30 Min.	1 Hour	2 Hours	4 Hours
2	8:00-18:00	Mon-Fri Except holidays	45 Min.	2 Hours	1 Day	2 Days
3	8:00-18:00	Mon-Fri Except holidays	60 Min.	5 Hours	1 Day	3 Days
4	8:00-18:00	Mon-Fri Except holidays	120 Min	1 Day	3 Days	7 Days

## Hosting Infrastructure

- Provide a full-service managed hosting solution for LearnNowBC with a 100% uptime, hardware infrastructure, security and technical expertise. Insure the necessary customer-centric support required for reliance of the students, educators, and parents on LearnNowBC to continuously communicate and provide the necessary services ( Tutoring, Web Conferencing, Daily Physical Activity Tracker) etc.

## Software Licensing and Management

- Management of all necessary software licensing for the LearnNowBC site as follows:
  - Microsoft Server, Microsoft SQL Server, Microsoft Exchange Server, Microsoft Windows XP, Microsoft Office 2007, Norton Anti Virus, Snagit, Adobe Acrobat, Microsoft Visio, Microsoft Project, Urchin Analytics, WebWiz Forum, PDF Generator, SSL Certs (Entrust CMS), Live Vault, Veritas Backup, Equella
- Manage the LearnNowBC domain portfolio and SSL (*Secure Sockets Layer*) Certificate portfolio
  - [www.learnnowbc.ca](http://www.learnnowbc.ca)
  - [qa.learnnowbc.ca](http://qa.learnnowbc.ca)
  - [mail.vssociety.ca](mailto:mail.vssociety.ca)
  - [sp.vssociety.ca](http://sp.vssociety.ca)

## Backups and Disaster Recovery

- Manage the LearnNowBC Backup Strategy – The primary purpose is to recover data as a reaction to data loss, be it by data deletion or corrupted data. Ensure that all data remains in Canada in a secure storage location, it is selected, extracted, and manipulated to optimize the backup procedure.
- Disaster Recovery Plan – Manage and maintain the LNBC Disaster Recovery Plan (DRP) as part of the organization's overall business continuity plan (BCP) and specifically addresses the objectives and actions that the organization will execute to recover from a "disaster".

- Provide a representative with the designated Ministry contact on a monthly basis to communicate and discuss the ongoing operations of the LearnNowBC website portal, trends and opportunities.
- The Recipient will submit to the Province, on or before March 31, 2012, a Final Statistics Report for statistics from April 1, 2011 to March 31, 2012 along with a detail of receipt and expenditure of the Financial Contribution.

Term of the Agreement: Beginning on April 1, 2011 and ending on March 31, 2012

## Schedule "B2" - Financial Contribution

- 1) The Province agrees to provide a Financial Contribution to the Recipient in the amount of \$2,100,000.00 for the provision of the Services during the Term of the Agreement, both described in Schedule "A".
- 2) Funds contributed under this Agreement will be expended by the Recipient only for the purposes of this Agreement in accordance with any condition set out in this Agreement. The Province will initiate payment as set out below:

a) Upon execution of this Agreement	\$450,000.00
b) On or before July 1, 2011	\$300,000.00
c) On or before September 1, 2011	\$500,000.00
d) On or before December 1, 2011	\$500,000.00
e) On or before February 1, 2012	\$350,000.00
- 3) On or before the 30<sup>th</sup> of each month for the preceding month and subject to receipt and approval submission of the remaining monthly Statistics Reports (April, June, September, December, March 2012) and a Final Statistics Report for April 1, 2011 – March 31, 2012 along with a full accounting of the receipt and expenditure of the Financial Contribution.
- 4) In accordance with paragraphs 2.03 and 2.04 of the Agreement, all such refunds or remissions obtained by the Recipient must be applied to the provision of the Services set out in Schedule "A" or performance of any other obligation of the Recipient under this Agreement in respect of those Services.



## LearnNowBC Key Performance Indicators

BC Objectives / Goals	Key Performance Indicators (KPIs)	Description	Baseline / Notes	Measurement
1. System Availability	Number (or hours) of outages due to <b>incidents (unplanned unavailability)</b>	Number(or hours) of outages (unavailability) due to incidents in the IT environment	Baseline: less than .5% IT: Does not include outages due to factors beyond IT control such as PLNet outage, Act of God	
2. System Availability	Number (or hours) of outages due to <b>changes (planned unavailability)</b>	Number(or hours) of outages (unavailability) due to implementation of planned changes	IT: max 2 different outages per server per calendar month for IT functions (or 3 if ITI takes over some apps maintenance as was recently proposed). <b>NA for apps</b>	
Network Availability	Number (or hours) of outages due to <b>incidents (unplanned unavailability)</b>	Number(or hours) of outages (unavailability) due to incidents in the IT environment	Baseline - 99.9% uptime	
3. Operational support / efficiencies	Number of open service requests within last 28 days	Number of open service requests within last 28 days.	Max 500 new requests per calendar month (this number may need to increase as users increase). The number 600 was selected after a review of past metrics.	
4. IT - Business Alignment	% of current initiatives driven by the business	Percentage of current business initiatives that are considered innovations that are driven by the business, i.e., not within IT.	Establish Baseline	
5. Operational support / efficiencies	% of successful software upgrades. Software should not be more than two product releases behind	Percentage of successful software upgrades (excludes full installations).	99% ITI: Suggest 95% is a more realistic target based on past experience.	
6. Operational support / efficiencies	Number of calls handled after standard work hours	Number of calls handled after standard work hours	ITI: target is 0. May only be required at Exam Preparation January and June, Code Migration <b>NA for apps</b>	
7. BCP	IT Service Continuity Plan testing successes	Number (or percentage) of successful tests performed for annual IT Service Continuity Plan	Baseline: one full exercise each year	

# Appendix '1'

Contract # C12/3300

## PROVINCE OF BRITISH COLUMBIA MINISTRY OF EDUCATION

### TRANSFER UNDER AGREEMENT

THIS AGREEMENT dated for reference the 1st day of April, 2011

#### BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
represented by the Minister of Education

(the "Province")

#### OF THE FIRST PART

#### AND:

THE VIRTUAL SCHOOL SOCIETY  
(#222 - 645 Fort Street, Victoria BC V8W 1G2)  
(the "Recipient")

#### OF THE SECOND PART

The parties to this Agreement agree as follows:

#### SECTION 1 - APPOINTMENT

- 1.01 The Province retains the Recipient to provide the services (the "Services") during the term (the "Term"), both described in Schedule "A".

#### SECTION 2 - PAYMENT OF A FINANCIAL CONTRIBUTION

- 2.01 Subject to the provisions of this Agreement, the Province will provide the Recipient with a financial contribution (the "Financial Contribution"), in the amount and manner, and at the times set out in Schedule "B" attached to this Agreement.
- 2.02 Notwithstanding any other provision of this Agreement the payment of the Financial Contribution" by the Province to the Recipient pursuant to this Agreement is subject to:
- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act* ("FAA"), to enable the Province, in any fiscal year when any payment of money by the Province to the Recipient falls due pursuant to this Agreement, to make that payment; and
  - (b) Treasury Board, as defined in the FAA, not having controlled or limited, pursuant to the FAA, expenditure under any appropriation referred to in subparagraph (a) of this paragraph.
- 2.03 The Recipient must:
- (a) apply for any refund or remission of federal or provincial tax or duty available with respect to any items that the Province has paid for or agreed to pay for under this Agreement (the "Refund"), and
  - (b) on receipt of the Refund, comply with the requirements concerning the use, application or remittance of the Refund set out in Schedule "B" to this Agreement.
- 2.04 Paragraph 2.03 continues in force indefinitely, even after this Agreement expires or is terminated.

### SECTION 3 - REPRESENTATIONS AND WARRANTIES

- 3.01. The Recipient represents and warrants to the Province with the intent that the Province will rely thereon in entering into this Agreement that:
- (a) all information, statements, documents and reports furnished or submitted by it to the Province in connection with this Agreement are true and correct;
  - (b) it has no knowledge of any fact that materially adversely affects, or so far as it can foresee, might materially adversely affect, its properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement;
  - (c) it is not in breach of, or in default under, any law, statute or regulation of Canada or of the Province of British Columbia applicable to or binding on it or its operations;
- 3.02 All statements contained in any certificate, application, proposal or other document delivered by or on behalf of the Recipient to the Province under this Agreement or in connection with any of the transactions contemplated hereby will be deemed to be representations and warranties by the Recipient under this Agreement.
- 3.03 All representations, warranties, covenants and Agreements made herein and all certificates, applications or other documents delivered by or on behalf of the Recipient are material and will have been relied upon by the Province and will continue in full force and effect during the continuation of this Agreement.

### SECTION 4 - RELATIONSHIP

- 4.01 No partnership, joint venture, agency or other legal entity will be created by or will be deemed to be created by this Agreement or any actions of the parties pursuant to this Agreement.
- 4.02 The Recipient will be an independent contractor and not the servant, employee or agent of the Province:
- 4.03 The Recipient will not in any manner whatsoever commit or purport to commit the Province to the payment of money to any person, firm or corporation.
- 4.04 The Province may, from time to time, give instructions to the Recipient in relation to the carrying out of the Services, and the Recipient will comply with those instructions but will not be subject to the control of the Province regarding the manner in which those instructions are carried out except as specified in this Agreement.

### SECTION 5 - RECIPIENT'S OBLIGATIONS

- 5.01 The Recipient will:
- (a) carry out the Services in accordance with the terms of this Agreement during the Term stated in Schedule "A" of this Agreement;
  - (b) comply with the payment requirements set out in Schedule "B", including all requirements concerning the use, application and expenditure of the Financial Contribution provided under this Agreement;
  - (c) comply with all applicable laws;
  - (d) hire and retain only qualified staff;
  - (e) without limiting the provisions of subparagraph (c) of paragraph 5.01, carry out criminal record checks as required by the *Criminal Records Review Act*, in accordance with Schedule "D", if attached to this Agreement; and
  - (f) Unless agreed otherwise supply, at its own cost, all labour, materials and approvals necessary to carry out the Services.
  - (g) co-operate with the Province in making such public announcements regarding the Services and the details of this Agreement as the Province requests; and
  - (h) acknowledge the financial contribution made by the Province to the Recipient for the Services in any Materials, by printing on each of the Materials the following statement:  
*"We gratefully acknowledge the financial support of the Province of British*

## **SECTION 6 - RECORDS**

- 6.01 The Recipient will:
- (a) establish and maintain accounting and administrative records in form and content satisfactory of the Province, to be used as the basis for the calculation of the Financial Contribution;
  - (b) establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the province; and
  - (c) permit the Province at any time or times during normal business hours, to copy or audit, or both, any or all of the books of account and records (including original supporting documents) referred to in sub-paragraphs (a) and (b) of this paragraph.
- 6.02 The Recipient will not, without the express written consent of the Province, dispose of any time records, books of account, invoices, receipts or vouchers relevant to this Agreement.

## **SECTION 7 - STATEMENTS AND ACCOUNTING**

- 7.01 Within 3 months of being requested to do so by the Province, the Recipient will:
- (a) provide to the Province, audited financial statement(s) for the Recipient's last fiscal year, covering the term of this Agreement;
- 7.02 At the sole option of the Province, any portion of the Financial Contribution provided to the Recipient under this Agreement and not expended at the end of the Term shall be:
- (a) returned by the Recipient to the Minister of Finance;
  - (b) retained by the Recipient as supplemental funding provided for under an amendment to this Agreement; or
  - (c) deducted by the Province from any future funding requests submitted by the Recipient and approved by the Province.

## **SECTION 8 - REPORTS**

- 8.01 Upon the Province's request, the Recipient will:
- (a) in a timely manner, fully inform the Province of the work completed and remaining to be done by the Recipient under this Agreement, and
  - (b) permit the Province at all reasonable times to inspect, audit, examine, review and copy any findings, data, specifications, drawings, working papers, reports, surveys, spread sheets, evaluations, documents, databases and material, (both printed and electronic, including, but not limited to, hard disk or diskettes), whether complete or not, that is produced or otherwise acquired by the Recipient as a result of this Agreement (collectively, the "Material").

## **SECTION 9 - CONFLICT OF INTEREST**

- 9.01 The Recipient will not, during the Term, perform a service for or provide advice to any person, or entity where the performance of such service or the provision of the advice may, in the reasonable opinion of the Province, give rise to a conflict of interest between the obligations of the Recipient to the Province under this Agreement and the obligations of the Recipient to such other person, or entity.

## **SECTION 10 - CONFIDENTIALITY**

- 10.01 The Recipient will treat as confidential all information or material supplied to or obtained by the Recipient, or any sub-contractor, as a result of this Agreement and will not, without the prior written consent of the Province, except as required by applicable law including *the Freedom of Information and Protection of Privacy Act*, permit its disclosure except to the extent that such disclosure is necessary to enable the Recipient to fulfill its obligations under this Agreement.

## SECTION 11 - DEFAULT

11.01 Any of the following events will constitute an Event of Default, namely:

- (a) the Recipient fails to comply with any provision of this Agreement;
- (b) any representation or warranty made by the Recipient in accepting this Agreement is untrue or incorrect;
- (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the Recipient pursuant to or as a result of this Agreement is untrue or incorrect;
- (d) the Recipient ceases, in the opinion of the Province, to operate;
- (e) a change occurs with respect to any one or more, including all, of the properties, assets, condition (financial or otherwise), business or operations of the Recipient which, in the opinion of the Province, materially adversely affects the ability of the Recipient to fulfill its obligations under this Agreement;
- (f) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Recipient;
- (g) the Recipient becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- (h) a bankruptcy petition is filed or presented against, or a proposal under *the Bankruptcy and Insolvency Act* (Canada) is made by, the Recipient;
- (i) a receiver or receiver-manager of any property of the Recipient is appointed; or
- (j) the Recipient permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof.

## SECTION 12 - TERMINATION

12.01 Upon the occurrence of any Event of Default and at any time thereafter the Province may, notwithstanding any other provision of this Agreement, at its option, elect to do any one or more of the following:

- (a) terminate this Agreement, in which case the payment of the amount required under paragraph 12.03 of this Agreement will discharge the Province of all liability to the Recipient under this Agreement;
- (b) require the Event of Default be remedied within a time period specified by the Province;
- (c) suspend any installment of the Financial Contribution or any amount that is due to the Recipient while the Event of Default continues;
- (d) waive the Event of Default;
- (e) pursue any other remedy available at law or in equity.

12.02 The Province may also, at its option, either:

- (a) terminate this Agreement on 30 days' written notice, or
- (b) terminate this Agreement immediately if the Province determines that the Recipient's failure to comply places the health or safety of any person receiving the Services at immediate risk,

and in either case, the payment of the amount required under paragraph 12.03 of this Agreement will discharge the Province of all liability to the Recipient under this Agreement.

12.03 Where this Agreement is terminated before 100% completion of the Services, the Province will pay to the Recipient that portion of the Financial Contribution which is equal to the portion of the Services completed to the satisfaction of the Province prior to termination.

## SECTION 13 - DISPUTE RESOLUTION

- 13.01 All disputes arising out of or in connection with this Agreement will be referred to and finally resolved by arbitration pursuant to the *Commercial Arbitration Act*.

#### SECTION 14 - INSURANCE AND INDEMNITY

- 14.01 During the Term of this Agreement, the Recipient will provide, maintain and pay for insurance as specified in Schedule "C", if any, which may be amended from time to time at the sole discretion of the Province.
- 14.02 Without limiting the provisions of subparagraph (c) of paragraph 5.01, the Recipient will comply with the Workers' Compensation Legislation for the Province of British Columbia.
- 14.03 The Recipient will indemnify and save harmless the Province, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the Province may sustain, incur, suffer or put to at any time either before or after the expiration or termination of this Agreement, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the Recipient, or of any agent, employee, officer, director or sub-contractor of the Recipient pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Province.

#### SECTION 15 - ASSIGNMENT AND SUB-CONTRACTING

- 15.01 The Recipient will not, without the prior, written consent of the Province:
- (a) assign, either directly or indirectly, this Agreement or any right of the Recipient under this Agreement; or
  - (b) sub-contract any obligation of the Recipient under this Agreement.
- 15.02 No sub-contract entered into by the Recipient will relieve the Recipient from any of its obligations under this Agreement or impose upon the Province any obligation or liability arising from any such sub-contract.
- 15.03 This Agreement will be binding upon the Province and its assigns and the Recipient, the Recipient's successors and permitted assigns.

#### SECTION 16 - OTHER FUNDING

- 16.01 If the Recipient receives funding for or in respect of the Services from any person, firm, corporation or other government or governmental body, then the Recipient will immediately provide the Province with full and complete details thereof.

#### SECTION 17 - NOTICES

- 17.01 Any written communication from the Recipient to the Province must be mailed, personally delivered, faxed or electronically transmitted to the following address:

*Renate Butterfield, Assistant Deputy Minister  
Knowledge Management Division  
Ministry of Education  
PO Box 9132, Stu Prov Govt  
Victoria BC V8W 9B5*

*Phone: (250) 356-6068  
Email: [Renate.Butterfield@gov.bc.ca](mailto:Renate.Butterfield@gov.bc.ca)*

- 17.02 Any written communication from the Province to the Recipient must be mailed, personally delivered, faxed or electronically transmitted to the following address:

*Gordon Milne, President  
The Virtual School Society*



#222-645 Fort Street  
Victoria BC V8W 1G2

Phone: (250) 940-1140  
Email: Gordon.Milne@vssociety.ca

- 17.03 Any written communication from either party will be deemed to have been received by the other party on the third business day after mailing in British Columbia; on the date of personal delivery if personally delivered; or on the date of transmission if faxed;
- 17.04 Either party may, from time to time, notify the other party in writing of a change of address and, following the receipt of such notice, the new address will, for the purposes of paragraph 18.01 or 18.02 of this Agreement, be deemed to be the mailing address of the party giving notice.

#### **SECTION 18 - NON-WAIVER**

- 18.01 No term or condition of this Agreement and no breach by the Recipient of any such term or condition will be deemed to have been waived unless such waiver is in writing signed by the Province and the Recipient.
- 18.02 The written waiver by the Province or any breach by the Recipient of any term or condition of this Agreement will not be deemed to be a waiver of any other provision of any subsequent breach of the same or any other provision of this Agreement.

#### **SECTION 19 - ENTIRE AGREEMENT**

- 19.01 This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement.

#### **SECTION 20 - SURVIVAL OF PROVISIONS**

- 20.01 All of the provisions of this Agreement in favour of the Province including, without limitation, paragraphs 2.02, 4.03, 6.01, 7.02, 8.01, 10.01, 12.03, 14.03, 17.01 to 17.04, and all of the rights and remedies of the Province, either at law or in equity, will survive any expiration or sooner termination of this Agreement.

#### **SECTION 21 - MISCELLANEOUS**

- 21.01 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
- 21.02 The Schedules to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement.
- 21.03 No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties.
- 21.04 If any provision of this Agreement or the application to any person or circumstance is invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provision to any other person or circumstance will not be affected or impaired thereby and will be enforceable to the extent permitted by law.
- 21.05 Nothing in this Agreement operates as a consent, permit, approval or authorization by the Government of the Province of British Columbia or any Ministry or Branch thereof to or for anything related to the Services that by statute, the Recipient is required to obtain unless it is expressly stated herein to be such a consent, permit, approval or authorization.
- 21.06 Where the Recipient is a corporation, the Recipient warrants that the signatory has been duly authorized by the Recipient to execute this Agreement without corporate seal on behalf of the Recipient.

21.07 This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered shall be an original, and all such counterparts may be delivered by facsimile transmission and such transmission shall be considered an original.

21.08 For the purpose of paragraphs 21.09 and 21.10, an "Event of Force Majeure" includes, but is not limited to, acts of God, changes in the laws of Canada, governmental restrictions or control on imports, exports or foreign exchange, wars (declared or undeclared), fires, floods, storms, strikes (including illegal work stoppages or slowdowns), lockouts, labour shortages, freight embargoes and power failures or other cause beyond the reasonable control of a Party, provided always that lack of money, financing or credit will not be and will not be deemed to be an "Event of Force Majeure".

21.09 Neither party will be liable to the other for any delay, interruption or failure in the performance of their respective obligations if caused by an Event of Force Majeure, in which case the time period for the performance or completion of any such obligation will be automatically extended for the duration of the Event of Force Majeure.

21.10 If an Event of Force Majeure occurs or is likely to occur, then the party directly affected will notify the other Party forthwith, and will use its reasonable efforts to remove, curtail or contain the cause of the delay, interruption or failure and to resume with the least possible delay compliance with its obligations under this Agreement.

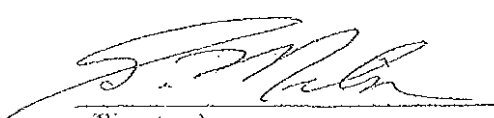
The parties hereto have executed this Agreement the day and year as set out above.


SIGNED AND DELIVERED by the  
Recipient or an Authorized  
Representative of the Recipient.

SIGNED AND DELIVERED on behalf  
of the Province by an Authorized  
Representative of the Province.

GORDON D. MILNE  
(Gordon Milne)

(Renate Butterfield)

  
(Signature)

  
(Signature)



## SCHEDULE A

### BACKGROUND

The BC Government announced the creation of a BC Virtual School in the 2006 Throne Speech. The BC Virtual School, operating the LearnNowBC.ca website portal is an alliance of distributed learning providers in BC's K-12 education system.

The LearnNowBC website portal was launched in October 2006 as a means of providing students with access to educational choice, flexible options and services that directly supports their achievement. Helping students find courses and schedules that align with their needs and lifestyles in one way that LearnNowBC adds value to the K-12 education system.

The Virtual School Society's purpose is to:

- Enhance the achievement of students through distributed learning.
- Make British Columbia a leader in online educational programs.
- Promote distributed learning in British Columbia.

The goal of the Virtual School Society is to continue to expand services available for K-12 students as well as for parents and educators by continually updating offerings for the LearnNowBC.ca users.

### SERVICES

In support of the Minister of Education's agreement for delivery of distributed learning with boards of education, the Province will provide a financial contribution to the Recipient to provide the following services to the satisfaction of the Province. Under this agreement, Renate Butterfield, Assistance Deputy Ministry (ADM), Knowledge Management Division, Ministry of Education, will represent the Province.

The Recipient will:

1. Continue to provide for base operations on LearnNowBC.ca ( including but not limited to Academic and Career Advising , Distributed Learning Course Finder, and Daily Physical Activity Tracker {Student and Educator});
2. Continue to provide and maintain Elluminate province-wide license on [www.LearnNowBC.ca](http://www.LearnNowBC.ca).
3. Continue to provide the Study Center offering tutoring series for the students of British Columbia on [www.LearnNowBC.ca](http://www.LearnNowBC.ca).
4. Provide a representative to with the designated Ministry contact on a monthly basis to communicate and discuss the ongoing operations of the LearnNowBC website portal, trends and opportunities.

5. Submit to the Province a series of statistics reports of the Services provided on the LearnNowBC site, showing month-over-month trend data highlighting anomalies. Statistics Reports to be submitted to the Province on or before the 30<sup>th</sup> day of each month for the preceding month providing the following detail:

<p><u><b>LearnNowBC</b></u> Itemize to include:</p> <ul style="list-style-type: none"> <li>• The number of students accessing the service.</li> <li>• The number of educators accessing the service.</li> <li>• The number of parents accessing the service.</li> </ul>	<p><u><b>Daily Physical Activity (DPA)</b></u> Itemize to include:</p> <ul style="list-style-type: none"> <li>• The number of schools.</li> <li>• Number of students DPA logs and number of activities.</li> </ul> <p>Further detail must be available by students and school should the ministry request this information.</p>
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<p><u><b>Educator Network</b></u> Itemize to include:</p> <ul style="list-style-type: none"> <li>• Professional Development.</li> <li>• Elluminate Usage and Cyber Safety.</li> </ul>	<p><u><b>Parent Information Network</b></u> Itemize to include:</p> <ul style="list-style-type: none"> <li>• Number of parents accessing the site by service or information section.</li> </ul>
<p><u><b>Early Learning</b></u> Itemize to include:</p> <ul style="list-style-type: none"> <li>• Usage by Professional Development.</li> <li>• Forum usage.</li> </ul>	<p><u><b>Elluminate Usage - Meeting and Attendees</b></u> Itemize to include:</p> <ul style="list-style-type: none"> <li>• Usage by Room, Attendee and Recordings</li> </ul>

6. The Ministry may require additional information and statistics from the Recipient if and when requested.
7. The Recipient will negotiate for annual portal operational maintenance activities (on or before the end of June 2011), for tutoring series (on or before the end of June 2011), and for annual province-wide Elluminate *Live!* licenses (on or before the end of October 2011).
8. The Recipient will submit the Province, on or before March 31, 2012, a **Final Statistics Report** for statistics from April 1, 2011 to March 31, 2012 along with a detail of receipt and expenditure of the Financial Contribution.

**Term of the agreement:** Beginning on April 1, 2011 and ending on March 31, 2012

**SCHEDULE "B"**  
**Financial Contribution**

1. The Province agrees to provide a Financial Contribution to the Recipient in the amount of \$900,000.00 for the provision of the Services during the Term of the Agreement, both described in Schedule "A".
2. Funds contributed under this Agreement will be expended by the Recipient only for the purposes of this Agreement in accordance with any conditions set out in this Agreement. The Province will initiate payments as set out below:
  - a) Upon execution of this agreement \$450,000.00
  - b) On or before June 30, 2011 \$300,000.00
  - c) On or before October 1, 2011 \$150,000.00
  - d) On or before the 30<sup>th</sup> of each month for the preceding month, and subject to receipt and approval, submission of the remaining monthly Statistics Reports (April 2011, May 2011, June 2011, July 2011, August 2011, September 2011, October 2011, November 2011, December 2011, January 2012, February 2012, March 2012) and a Final Statistics report for April 1, 2011 to March 31, 2012, along with a full accounting of the receipt and expenditure of the financial contribution.
3. In accordance with paragraphs 2.03 and 2.04 of the Agreement, all such refunds or remissions obtained by the Recipient must be applied to the provision of the Services set out in Schedule "A" or performance of any other obligation of the Recipient under this Agreement in respect of those services.

PROVINCE OF BRITISH COLUMBIA  
MINISTRY OF EDUCATION

TRANSFER UNDER AGREEMENT

THIS AGREEMENT dated for reference the 1st day of April, 2012

BETWEEN:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA,  
represented by the Minister of Education

(the "Province")

OF THE FIRST PART

AND:

THE VIRTUAL SCHOOL SOCIETY  
#222 - 645 Fort Street  
Victoria BC V8W 1G2  
(the "Recipient")

OF THE SECOND PART

The parties to this Agreement agree as follows:

SECTION 1 - APPOINTMENT

- 1.01 The Province retains the Recipient to provide the services (the "Services") during the term (the "Term"), both described in Schedule "A".

SECTION 2 - PAYMENT OF A FINANCIAL CONTRIBUTION

- 2.01 Subject to the provisions of this Agreement, the Province will provide the Recipient with a financial contribution (the "Financial Contribution"), in the amount and manner, and at the times set out in Schedule "B" attached to this Agreement.
- 2.02 Notwithstanding any other provision of this Agreement the payment of the Financial Contribution" by the Province to the Recipient pursuant to this Agreement is subject to:
- (a) there being sufficient monies available in an appropriation, as defined in the *Financial Administration Act* ("FAA"), to enable the Province, in any fiscal year when any payment of money by the Province to the Recipient falls due pursuant to this Agreement, to make that payment; and
  - (b) Treasury Board, as defined in the FAA, not having controlled or limited, pursuant to the FAA, expenditure under any appropriation referred to in subparagraph (a) of this paragraph.
- 2.03 The Recipient must:
- (a) apply for any refund or remission of federal or provincial tax or duty available with respect to any items that the Province has paid for or agreed to pay for under this Agreement (the "Refund"), and
  - (b) on receipt of the Refund, comply with the requirements concerning the use, application or remittance of the Refund set out in Schedule "B" to this Agreement.
- 2.04 Paragraph 2.03 continues in force indefinitely, even after this Agreement expires or is terminated.

### SECTION 3 - REPRESENTATIONS AND WARRANTIES

- 3.01. The Recipient represents and warrants to the Province with the intent that the Province will rely thereon in entering into this Agreement that:
- (a) all information, statements, documents and reports furnished or submitted by it to the Province in connection with this Agreement are true and correct;
  - (b) it has no knowledge of any fact that materially adversely affects, or so far as it can foresee, might materially adversely affect, its properties, assets, condition (financial or otherwise), business or operations or its ability to fulfill its obligations under this Agreement;
  - (c) it is not in breach of, or in default under, any law, statute or regulation of Canada or of the Province of British Columbia applicable to or binding on it or its operations;
- 3.02 All statements contained in any certificate, application, proposal or other document delivered by or on behalf of the Recipient to the Province under this Agreement or in connection with any of the transactions contemplated hereby will be deemed to be representations and warranties by the Recipient under this Agreement.
- 3.03 All representations, warranties, covenants and Agreements made herein and all certificates, applications or other documents delivered by or on behalf of the Recipient are material and will have been relied upon by the Province and will continue in full force and effect during the continuation of this Agreement.

### SECTION 4 - RELATIONSHIP

- 4.01 No partnership, joint venture, agency or other legal entity will be created by or will be deemed to be created by this Agreement or any actions of the parties pursuant to this Agreement.
- 4.02 The Recipient will be an independent contractor and not the servant, employee or agent of the Province;
- 4.03 The Recipient will not in any manner whatsoever commit or purport to commit the Province to the payment of money to any person, firm or corporation.
- 4.04 The Province may, from time to time, give instructions to the Recipient in relation to the carrying out of the Services, and the Recipient will comply with those instructions but will not be subject to the control of the Province regarding the manner in which those instructions are carried out except as specified in this Agreement.

### SECTION 5 - RECIPIENT'S OBLIGATIONS

- 5.01 The Recipient will:
- (a) carry out the Services in accordance with the terms of this Agreement during the Term stated in Schedule "A" of this Agreement;
  - (b) comply with the payment requirements set out in Schedule "B", including all requirements concerning the use, application and expenditure of the Financial Contribution provided under this Agreement;
  - (c) comply with all applicable laws;
  - (d) hire and retain only qualified staff;
  - (e) without limiting the provisions of subparagraph (c) of paragraph 5.01, carry out criminal record checks as required by the *Criminal Records Review Act*, in accordance with Schedule "D", if attached to this Agreement; and
  - (f) Unless agreed otherwise supply, at its own cost, all labour, materials and approvals necessary to carry out the Services.
  - (g) co-operate with the Province in making such public announcements regarding the Services and the details of this Agreement as the Province requests; and
  - (h) acknowledge the financial contribution made by the Province to the Recipient for the Services in any Materials, by printing on each of the Materials the following statement:  
*"We gratefully acknowledge the financial support of the Province of British Columbia through the Ministry of Education."*

## SECTION 6 - RECORDS

- 6.01 The Recipient will:
- (a) establish and maintain accounting and administrative records in form and content satisfactory of the Province, to be used as the basis for the calculation of the Financial Contribution;
  - (b) establish and maintain books of account, invoices, receipts and vouchers for all expenses incurred in form and content satisfactory to the province; and
  - (c) permit the Province at any time or times during normal business hours, to copy or audit, or both, any or all of the books of account and records (including original supporting documents) referred to in sub-paragraphs (a) and (b) of this paragraph.
- 6.02 The Recipient will not, without the express written consent of the Province, dispose of any time records, books of account, invoices, receipts or vouchers relevant to this Agreement.

## SECTION 7 - STATEMENTS AND ACCOUNTING

- 7.01 Within 3 months of being requested to do so by the Province, the Recipient will:
- (a) provide to the Province, audited financial statement(s) for the Recipient's last fiscal year, covering the term of this Agreement;
- 7.02 At the sole option of the Province, any portion of the Financial Contribution provided to the Recipient under this Agreement and not expended at the end of the Term shall be:
- (a) returned by the Recipient to the Minister of Finance;
  - (b) retained by the Recipient as supplemental funding provided for under an amendment to this Agreement; or
  - (c) deducted by the Province from any future funding requests submitted by the Recipient and approved by the Province.

## SECTION 8 - REPORTS

- 8.01 Upon the Province's request, the Recipient will:
- (a) in a timely manner, fully inform the Province of the work completed and remaining to be done by the Recipient under this Agreement, and
  - (b) permit the Province at all reasonable times to inspect, audit, examine, review and copy any findings, data, specifications, drawings, working papers, reports, surveys, spread sheets, evaluations, documents, databases and material, (both printed and electronic, including, but not limited to, hard disk or diskettes), whether complete or not, that is produced or otherwise acquired by the Recipient as a result of this Agreement (collectively, the "Material").

## SECTION 9 - CONFLICT OF INTEREST

- 9.01 The Recipient will not, during the Term, perform a service for or provide advice to any person, or entity where the performance of such service or the provision of the advice may, in the reasonable opinion of the Province, give rise to a conflict of interest between the obligations of the Recipient to the Province under this Agreement and the obligations of the Recipient to such other person, or entity.

## SECTION 10 - CONFIDENTIALITY

- 10.01 The Recipient will treat as confidential all information or material supplied to or obtained by the Recipient, or any sub-contractor, as a result of this Agreement and will not, without the prior written consent of the Province, except as required by applicable law including the *Freedom of Information and Protection of Privacy Act*, permit its disclosure except to the extent that such disclosure is necessary to enable the Recipient to fulfill its obligations under this Agreement.

## SECTION 11 - DEFAULT

11.01 Any of the following events will constitute an Event of Default, namely:

- (a) the Recipient fails to comply with any provision of this Agreement;
- (b) any representation or warranty made by the Recipient in accepting this Agreement is untrue or incorrect;
- (c) any information, statement, certificate, report or other document furnished or submitted by or on behalf of the Recipient pursuant to or as a result of this Agreement is untrue or incorrect;
- (d) the Recipient ceases, in the opinion of the Province, to operate;
- (e) a change occurs with respect to any one or more, including all, of the properties, assets, condition (financial or otherwise), business or operations of the Recipient which, in the opinion of the Province, materially adversely affects the ability of the Recipient to fulfill its obligations under this Agreement;
- (f) an order is made or a resolution is passed or a petition is filed for the liquidation or winding up of the Recipient;
- (g) the Recipient becomes insolvent or commits an act of bankruptcy or makes an assignment for the benefit of its creditors or otherwise acknowledges its insolvency;
- (h) a bankruptcy petition is filed or presented against, or a proposal under *the Bankruptcy and Insolvency Act* (Canada) is made by, the Recipient;
- (i) a receiver or receiver-manager of any property of the Recipient is appointed; or
- (j) the Recipient permits any sum which is not disputed to be due by it to remain unpaid after legal proceedings have been commenced to enforce payment thereof.

## SECTION 12 - TERMINATION

12.01 Upon the occurrence of any Event of Default and at any time thereafter the Province may, notwithstanding any other provision of this Agreement, at its option, elect to do any one or more of the following:

- (a) terminate this Agreement, in which case the payment of the amount required under paragraph 12.03 of this Agreement will discharge the Province of all liability to the Recipient under this Agreement;
- (b) require the Event of Default be remedied within a time period specified by the Province;
- (c) suspend any installment of the Financial Contribution or any amount that is due to the Recipient while the Event of Default continues;
- (d) waive the Event of Default;
- (e) pursue any other remedy available at law or in equity.

12.02 The Province may also, at its option, either:

- (a) terminate this Agreement on 30 days' written notice, or
- (b) terminate this Agreement immediately if the Province determines that the Recipient's failure to comply places the health or safety of any person receiving the Services at immediate risk,

and in either case, the payment of the amount required under paragraph 12.03 of this Agreement will discharge the Province of all liability to the Recipient under this Agreement.

12.03 Where this Agreement is terminated before 100% completion of the Services, the Province will pay to the Recipient that portion of the Financial Contribution which is equal to the portion of the Services completed to the satisfaction of the Province prior to termination.

## SECTION 13 - DISPUTE RESOLUTION

13.01 All disputes arising out of or in connection with this Agreement will be referred to and finally resolved by arbitration pursuant to the *Commercial Arbitration Act*.



## SECTION 14 - INSURANCE AND INDEMNITY

- 14.01 During the Term of this Agreement, the Recipient will provide, maintain and pay for insurance as specified in Schedule "C", if any, which may be amended from time to time at the sole discretion of the Province.
- 14.02 Without limiting the provisions of subparagraph (c) of paragraph 5.01, the Recipient will comply with the Workers' Compensation Legislation for the Province of British Columbia.
- 14.03 The Recipient will indemnify and save harmless the Province, its employees and agents, from and against any and all losses, claims, damages, actions, causes of action, costs and expenses that the Province may sustain, incur, suffer or put to at any time either before or after the expiration or termination of this Agreement, where the same or any of them are based upon, arise out of or occur, directly or indirectly, by reason of any act or omission of the Recipient, or of any agent, employee, officer, director or sub-contractor of the Recipient pursuant to this Agreement, excepting always liability arising out of the independent negligent acts of the Province.

## SECTION 15 - ASSIGNMENT AND SUB-CONTRACTING

- 15.01 The Recipient will not, without the prior, written consent of the Province:
- (a) assign, either directly or indirectly, this Agreement or any right of the Recipient under this Agreement; or
  - (b) sub-contract any obligation of the Recipient under this Agreement.
- 15.02 No sub-contract entered into by the Recipient will relieve the Recipient from any of its obligations under this Agreement or impose upon the Province any obligation or liability arising from any such sub-contract.
- 15.03 This Agreement will be binding upon the Province and its assigns and the Recipient, the Recipient's successors and permitted assigns.

## SECTION 16 - OTHER FUNDING

- 16.01 If the Recipient receives funding for or in respect of the Services from any person, firm, corporation or other government or governmental body, then the Recipient will immediately provide the Province with full and complete details thereof.

## SECTION 17 - NOTICES

- 17.01 Any written communication from the Recipient to the Province must be mailed, personally delivered, faxed or electronically transmitted to the following address:

*Renate Butterfield, Assistant Deputy Minister  
Business Technology & Online Services Division  
Ministry of Education  
PO Box 9132, Stn Prov Govt  
Victoria BC V8W 9B5*

*Phone: (250) 387-7097  
Email: [Renate.Butterfield@gov.bc.ca](mailto:Renate.Butterfield@gov.bc.ca)*

- 17.02 Any written communication from the Province to the Recipient must be mailed, personally delivered, faxed or electronically transmitted to the following address:

*Gordon Milne, President  
The Virtual School Society  
#222-645 Fort Street  
Victoria BC V8W 1G2*

*Phone: (250) 940-1140  
Email: [Gordon.Milne@vssociety.ca](mailto:Gordon.Milne@vssociety.ca)*



- 17.03 Any written communication from either party will be deemed to have been received by the other party on the third business day after mailing in British Columbia; on the date of personal delivery if personally delivered; or on the date of transmission if faxed;
- 17.04 Either party may, from time to time, notify the other party in writing of a change of address and, following the receipt of such notice, the new address will, for the purposes of paragraph 18.01 or 18.02 of this Agreement, be deemed to be the mailing address of the party giving notice.

#### **SECTION 18 - NON-WAIVER**

- 18.01 No term or condition of this Agreement and no breach by the Recipient of any such term or condition will be deemed to have been waived unless such waiver is in writing signed by the Province and the Recipient.
- 18.02 The written waiver by the Province or any breach by the Recipient of any term or condition of this Agreement will not be deemed to be a waiver of any other provision of any subsequent breach of the same or any other provision of this Agreement.

#### **SECTION 19 - ENTIRE AGREEMENT**

- 19.01 This Agreement constitutes the entire Agreement between the parties with respect to the subject matter of this Agreement.

#### **SECTION 20 - SURVIVAL OF PROVISIONS**

- 20.01 All of the provisions of this Agreement in favour of the Province including, without limitation, paragraphs 2.02, 4.03, 6.01, 7.02, 8.01, 10.01, 12.03, 14.03, 17.01 to 17.04, and all of the rights and remedies of the Province, either at law or in equity, will survive any expiration or sooner termination of this Agreement.

#### **SECTION 21 - MISCELLANEOUS**

- 21.01 This Agreement will be governed by and construed in accordance with the laws of the Province of British Columbia.
- 21.02 The Schedules to this Agreement are an integral part of this Agreement as if set out at length in the body of this Agreement.
- 21.03 No amendment or modification to this Agreement will be effective unless it is in writing and duly executed by the parties.
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The parties hereto have executed this Agreement the day and year as set out above.

SIGNED AND DELIVERED by the  
Recipient or an Authorized Representative of  
the Recipient.

GORDON D. MILNE

(Gordon Milne)

(Signature)

SIGNED AND DELIVERED on behalf of the  
Province by an Authorized Representative of the  
Province.

(Renate Butterfield)

(Signature)

## SCHEDULE A

### BACKGROUND

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2. Continue to provide and maintain Elluminate province-wide license on [www.LearnNowBC.ca](http://www.LearnNowBC.ca).
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4. Provide a representative to with the designated Ministry contact on a monthly basis to communicate and discuss the ongoing operations of the LearnNowBC website portal, trends and opportunities.
5. Submit to the Province a series of statistics reports of the Services provided on the LearnNowBC site, showing month-over-month trend data highlighting anomalies. Statistics Reports to be submitted to the Province on or before the 30<sup>th</sup> day of each month for the preceding month providing the following detail:

<b>LearnNowBC</b> Itemize to include:	<b>Daily Physical Activity (DPA)</b> Itemize to include:
<ul style="list-style-type: none"><li>• The number of students accessing the service.</li><li>• The number of educators accessing the service.</li><li>• The number of parents accessing the service.</li></ul>	<ul style="list-style-type: none"><li>• The number of schools.</li><li>• Number of students DPA logs and number of activities.</li></ul>
	Further detail must be available by students and school should the ministry request this information.

<b><u>Study Center (Tutoring)</u></b> Itemize to include: <ul style="list-style-type: none"> <li>• One to One online tutoring.</li> <li>• Success Checker ( Self Assessment).</li> <li>• Charged up for Math and Science (Streaming video).</li> </ul> <p>Where possible show aggregate data according to individual course and supports.</p>	<b><u>Course Finder Detail</u></b> Itemize to include: <ul style="list-style-type: none"> <li>• Number of views for course finder and detail</li> <li>• A supplemental report to the number of enrolments that have been processed through the LearnNowBC site.</li> </ul>
<b><u>Educator Network</u></b> Itemize to include: <ul style="list-style-type: none"> <li>• Professional Development.</li> <li>• Elluminate Usage and Cyber Safety.</li> </ul>	<b><u>Parent Information Network</u></b> Itemize to include: <ul style="list-style-type: none"> <li>• Number of parents accessing the site by service or information section.</li> </ul>
<b><u>Early Learning</u></b> Itemize to include: <ul style="list-style-type: none"> <li>• Usage by Professional Development.</li> <li>• Forum usage.</li> </ul>	<b><u>Elluminate Usage - Meeting and Attendees</u></b> Itemize to include: <ul style="list-style-type: none"> <li>• Usage by Room, Attendee and Recordings</li> </ul>
<b><u>ActiveWorld –</u></b> Itemize to include: <ul style="list-style-type: none"> <li>• Provide hosting and technical support for the BC Nexus pilot project</li> </ul>	<b><u>CEET Moodle Meets –</u></b> <ul style="list-style-type: none"> <li>• Provide hosting and technical support for Moodle Meets on LearnNowBC</li> </ul>

6. The Ministry may require additional information and statistics from the Recipient if and when requested.
7. The Recipient will negotiate for annual portal operational maintenance activities (on or before the end of June 2012), for tutoring series (on or before the end of June 2012), and for annual province-wide Elluminate *Live!* Blackboard/Collaborate license on or before September 14, 2012.
8. The Recipient will submit the Province, on or before August 31, 2012, a **Final Statistics Report** for statistics from April 1, 2011 to August 31, 2012 along with a detail of receipt and expenditure of the Financial Contribution.

**Term of the agreement:** Beginning on April 1, 2012 and ending on September 14, 2012

**SCHEDULE "B"**  
**Financial Contribution**

1. The Province agrees to provide a Financial Contribution to the Recipient in the amount of **\$1,254,148.00** for the provision of the Services during the Term of the Agreement, both described in Schedule "A".
2. Funds contributed under this Agreement will be expended by the Recipient only for the purposes of this Agreement in accordance with any conditions set out in this Agreement. The Province will initiate payments as set out below:

• Upon execution of this agreement		<b>\$804,148.00</b>
○ Elluminate License 2012 April	\$224,000	
○ Elluminate License 2012 June	\$131,000	
○ Monthly Operating Costs April to June 2012	\$449,148	
▪ Tutoring		
▪ Advising		
▪ Daily Physical Activity		
▪ Support Desk		
▪ Application Maintenance and Development		
▪ Facilities		

• On or before May 31, 2012		<b>\$450,000.00</b>
○ Monthly Operating Costs July to September 2012	\$450,000	
▪ Tutoring		
▪ Advising		
▪ Daily Physical Activity		
▪ Support Desk		
▪ Application Maintenance and Development		
▪ Facilities		

- c) On or before the 30<sup>th</sup> of each month for the preceding month, and subject to receipt and approval, submission of the remaining monthly Statistics Reports (April 2012, May 2012, June 2012, July 2012, Sept 2012) and a **Final Statistics report** for April 1, 2012 to September 14, 2012, along with a full accounting of the receipt and expenditure of the financial contribution.

3. In accordance with paragraphs 2.03 and 2.04 of the Agreement, all such refunds or remissions obtained by the Recipient must be applied to the provision of the Services set out in Schedule "A" or performance of any other obligation of the Recipient under this Agreement in respect of those services.