

MEMORANDUM OF UNDERSTANDING (MOU)

This memorandum of understanding (MoU) is made and entered into on 11th day of February, 2014 between

Directorate General of Employment and Training, Ministry of Labour & Employment, Government of India hereinafter referred as "DGET" which expression shall where the context so admits or implies include its heirs, executors, successors and permitted assignees.

and

National Institute of Electronics and Information Technology (NIELIT) having its registered office at Electronics Niketan, 6, CGO Complex, Lodhi Road, New Delhi – 110 003, an Autonomous Scientific Society of Department of Electronics and Information Technology (DeitY), Ministry of Communications and Information Technology, Govt. of India, New Delhi hereinafter referred as "NIELIT" which expression shall where the context so admits or implies include its heirs, executors, successors and permitted assignees.

WHEREAS as per this MoU executed between DGET and NIELIT, the NIELIT shall design and supply OMR (Optical Mark Recognition) answer sheets and evaluate the OMR answer sheets.

WHEREAS DGET shall conduct the examination using these OMR sheets.

I. TERM

This agreement shall be effective from 01st February, 2014 and shall remain in force initially for one year extendable up to five years from the effective date of this agreement unless terminated in accordance with the provisions stipulated in Clause IX of this Agreement. There shall be a lock in period of one year from the effective date of the Agreement during which the Parties shall not be allowed to terminate this Agreement save and except as otherwise stated in Clause IX (ii) and IX (iii). The term of this Agreement may be extended further on mutually agreed terms for such additional periods as may be mutually agreed upon amongst the Parties.

II. SCOPE OF THE JOB

- i. The database of eligible candidates will have to be supplied by DGET/State Directorate in MS Access 2007 (.accdb) format for quality checking purposes, if possible.
- ii. Design of OMR sheets of A4 Size-105 GSM.
- iii. Print and supply of OMR boxes, each containing 20 lots (100 sheets per lot) to Government of India press, at Nasik.
- iv. Collection of OMR sheets after completion of examination from State Directorate office of DGET.
- v. Capture of data related to absent candidates from attendance sheet.
- vi. Scanning of OMR sheets with aid of OMR scanner.
- vii. Identification and processing of OMR sheet(s) in which roll no. has been encoded wrongly.

As per *Card*

- viii. Identification and processing of OMR sheet(s) which has been damaged/ distorted in any form.
- ix. Capture of master answer key/keys.
- x. Generation of marks list for each category.
- xi. Submission of marks in MS Access 2007 (.accdb) format to DGET and respective State Directorate as per Annexure – 1.
- xii. Submission of OMR boxes, each containing 20 lots (100 sheets per lot) to respective State Directorate of DGET as per Annexure – 1 after processing of result.

III. ROLES AND RESPONSIBILITIES OF EACH PARTY:

i. DGET

- a. The database of eligible candidates will have to be supplied by DGET/State Directorate in MS Access 2007 (.accdb) format for quality checking purposes, if possible.
- b. DGET will approve the design of OMR Sheet submitted by NIELIT.
- c. DGET will provide answer key in MS Access 2007 (.accdb) format provided by NIELIT.
- d. Standard Operating Procedures (SOP) of complete activity to be provided by DGET to be followed by NIELIT while processing OMR Sheets.
- e. DGET/ State Directorate will be responsible for prompt supply of documents and clarifications as & when necessitated by NIELIT.
- f. State Directorate will be responsible for packing & providing OMR Sheets after exam for collection by NIELIT.
- g. DGET/ State Directorate/NIELIT will be responsible for safe handling of OMR Sheets supplied during examination process. In case of More than 1% of Mutilated/Torn/Mis-handled OMR Sheets; suitable and appropriate decision will be taken with the consent of NIELIT, DGE&T and State Directorate.
- h. DGET will delegate the powers to NIELIT to take suitable and appropriate on-spot decision regarding processing of OMR Sheets, so as to complete the activity timely or otherwise will deploy at least two DGET/ State Directorate Personnel at each processing centre that need to be actively involved in respect of data checking along with NIELIT personnel for the entire duration of OMR Sheet Processing Activity after NIELIT has been handed over the OMR Sheet from respective State Directorate. Also their presence, during the whole post examination processing job, is required for control and security reason.
- i. Any matter relating to Right to information in respect of OMR based answer sheet evaluation will be dealt by DGE&T/State Directorate/NIELIT depending on the information sought and the area of jurisdiction.

ii. NIELIT

- a. NIELIT will be responsible for implementation of required software, installation of machines at each processing centre, scanning OMR sheets & required post examination processing leading to marks generation.
- b. NIELIT will accept data from DGET/ State Directorate only in MS Access 2007 (.accdb) format.




- c. NIELIT will print OMR sheets only after approval and written confirmation of the sample OMR Sheet.
- d. NIELIT will collect the OMR Sheet from State Directorate as per Annexure-1 for processing at respective processing centre for the zone.
- e. NIELIT will process the OMR Sheets at one or more of its regional centres as per Annexure-2.
- f. NIELIT will process the Mutilated/Torn/Mis-handled OMR Sheets manually up to a maximum of 1% of total OMR Sheets. More than 1% of Mutilated/Torn/Mis-handled OMR Sheets will be handed over back to DGET to be manually processed by DGET/ State Directorate.
- h. Regarding supply of OMR sheet, NIELIT will supply OMR sheet at Govt. of India Press at Nasik and NIELIT need at least **40 days** after art proof of OMR Sheet is being approved from DGET.
- i. NIELIT will provide the data for result and attendance to DGET/ State Directorate in MS Access 2007 (.accdb) format.

IV. FINANCIAL ASPECTS:

Parties agree to follow the following financial arrangement:

- i. NIELIT would charge Rs.10.00 (Rupees Ten only) per OMR Sheet Supplied per Candidate per Paper and not the number of students appeared. Taxes & Govt. Levis as applicable will be charged extra.
- ii. DGET will pay 30% (Thirty Percent) as mobilisation advance (As per GFR) for starting up of activity along with the exact number of OMR Sheet to be supplied.
- iii. DGET will pay 20% (Twenty Percent) within 14 days of delivery of OMR Sheet at Govt. Press, Nasik.
- iv. DGET will pay remaining 50% within 14 days of submission of result to DGET by NIELIT.
- v. It is understood that normal error rate is less than 5% (including 1% of Mutilated/Torn/Mis-handled OMR Sheets) for mistakes by students in filling OMR Sheets, if error is more than 5% DGET will pay for Rectification of Errors as per actual over and above Rs.10.00 (Rupees Ten only) per OMR Sheet Supplied within 14 days of submission of corrected result to DGET by NIELIT.

V. Project Time Schedule

| Activity | Time |
|--|--|
| Printing of OMR Sheets and Supply to Govt Press Nasik | 30 days after receipt of 30% Mobilisation Advance and approval of OMR design |
| Collection of OMR Sheets from State Directorates of DGET | Within 10 Days after the completion of exam from State Directorate |

As per

Handwritten signature

| | |
|--|---|
| Post Processing for OMR Sheet Evaluation for 25,00,000 candidates or part thereof. | 30 working days after receipt of OMR Sheet at NIELIT Processing Center |
| Rectification of Errors (Maximum 10%) or part thereof. | 10 Working Days after receiving corrections/ clarifications from DGET |
| Rectification of Errors above 10% or part thereof, if any. | 10 Working Days Per One Lac records after receiving corrections/ clarifications from DGET |

VI Penalty Clause

- i Delay in providing, printing OMR Sheets or results etc beyond schedule (as provided in clause V) could be kept at 5% per fortnight.
- ii Payment for rectification error for DGE&T may be made @Rs. 2/- per sheet.

VII REPRESENTATIONS AND WARRANTIES

- i. The Parties represent and warrant that they have relevant authority and permission under the applicable laws/ rules/ notifications or by virtue of the order/ instruction/ directive from the relevant authority to enter into this Agreement and to grant the right to NIELIT under the terms of this agreement to execute the OMR based answer sheet evaluation and such permission is not in conflict with any order/directive or any instruction, if any, issued by DGET to any other individual/person/authority.
- ii. It is clearly understood by the parties hereto that any decision taken by DGET in its capacity as Examination Body shall be binding on the other party of the agreement and nothing in this agreement shall compromise on the DGET's right to such actions.
- iii. It is clearly understood by the parties hereto that any decision taken by NIELIT in its capacity as OMR based answer sheet evaluator shall be binding on the other party of the agreement and nothing in this agreement shall compromise on the NIELIT's right to such actions.

VIII. LIMITATION OF LIABILITY AND INDEMNITY

- i Under no circumstance NIELIT will be responsible towards the candidates directly and thus will not be held accounted for by the candidates or their representative(s).
- ii. Under no circumstance NIELIT's liability to the DGET shall exceed the amount left as per actual after the processing of the OMR Sheet.

- iii. Under no circumstance it will be NIELIT's liability to verify the fact regarding the information furnished by examinee/DGET.
- iv. In no event, shall any Party be liable to the other for any special, indirect, incidental, punitive, contingent or consequential loss or damages suffered by any Party, including but not limited to a loss of use, data, business, anticipated savings, profit, reputation, goodwill or revenue, arising out of or in connection with this Agreement executed in pursuance hereof, and whether such liability arises from any claim based upon contract, warranty, tort, product liability, performance thereof or otherwise and whether or not the Party has been advised of the possibility of such loss or damages.

IX. TERMINATION

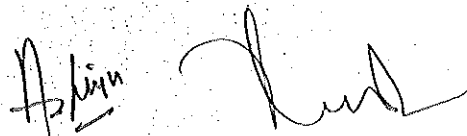
- i. This agreement shall be effective from the date of execution and shall remain in force initially for one year extendable up to five years from the effective date (1st February, 2014), unless terminated in accordance with the relevant provisions of this agreement. The term of this agreement may be extended for such additional periods on mutually agreed terms between the parties
- ii. That the agreement shall stand immediately terminated if any of the party becomes insolvent, makes a general assignment to the benefit of creditors, suffers or permits the appointment of a receiver or is subject to any proceeding under any bankruptcy law, or has wound up or liquidated.
- iii. That any termination of this agreement, by whatsoever reason, shall not affect any accrued rights or liabilities of either party nor shall it effect the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- iv. Notwithstanding anything contained in contrary, this agreement can be terminated by either party by giving a six months notice in writing in advance to the other party to this agreement.

X. COMMUNICATION

- i. Any communication or notice or intimation shall be addressed to the Nodal contacts of the respective parties and sent to their registered address and such a communication sent by e-mail, tele-fax, registered air-mail shall be deemed to be sufficient.

XI. CONFIDENTIALITY

- i. The Parties hereto shall at all times maintain and keep secret and confidential all Information and shall not disclose or divulge the same or any part thereof to any Third Party without the prior written consent of either Party in that behalf. However DGET reserves the right to call for any information from NIELIT in respect of this agreement.
- ii. Any matter relating to Right to Information in respect of the OMR based answer sheet evaluation will be dealt with by DGET/ State Directorate/NIELIT depending on the information sought and the area of jurisdiction.



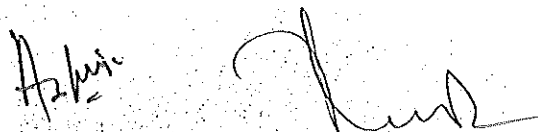
- iii. Any software/hardware material, product specifications, designs, financials, information, documents shall be deemed to be in private domain and it shall not be made public or shared with any other party without the prior written consent of the party which owns it.

XII FORCE MAJEURE

- i. Notwithstanding anything else contained in this Agreement, neither party shall be liable for any delay in performing its obligations hereunder if such delay is caused by circumstances beyond its reasonable control (including without limitation any delay caused by the acts of governments, acts of God, natural or social calamities, strikes, riots in any region, terrorist attack, war declared and undeclared) provided, however that any delay by a sub-contractor or supplier of the Party so delaying shall not relieve that Party from liability for delay except where such delay is beyond the reasonable control of the sub-contractor or supplier concerned.
- ii. Subject to the party so delaying promptly notifying the other party in writing of the reasons for the delay (and the likely duration of the delay), the performance of such party's obligations shall be suspended during the period that the online circumstances persist and such party shall be granted an extension of time for performance equal to the period of the delay. Save where such delay is caused by the act or omission of the other party (in which event the rights, remedies and liabilities of the parties shall be those conferred and imposed by the other terms of this Agreement and by law).
- iii. NIELIT cannot be held responsible for delay due to faults beyond its control; like delay in supply of documents or clarifications by DGET, power failure, machine non-functioning or malfunctioning of machines, etc.
- iii. The parties of the agreement would strive to discharge their obligations under this contract with due diligence.

XIII WAIVER OF REMEDIES

No forbearance, delay or indulgence by either Party in enforcing the provisions of this Agreement shall prejudice or restrict the rights of that Party nor shall any waiver of its rights operate as a waiver of any subsequent breach and no right, power or remedy herein conferred upon or reserved for either Party is exclusive of any other right, power or remedy available to that Party and each such right, power or remedy shall be cumulative. However NIELIT and DGET reserve the right to act appropriately in the larger interest of all stakeholders.



XIV. ASSIGNMENT

Neither party shall assign any of its rights and obligations hereunder whether in whole or in part without the prior written consent of the other. However, nothing in the foregoing shall be affected in the event of there being a merger, amalgamation or takeover of the business of NIELIT. In such an eventuality all the rights and obligations shall automatically be vested with the entity with which the NIELIT has been merged or is taken over.

XV. ENTIRE AGREEMENT

This agreement supersedes all other prior agreements, arrangements and undertakings exchanged between the parties in relation to OMR based answer sheet evaluation of DGET and constitutes the entire Agreement between the parties relating to the subject matter hereof. No addition to or modification of any provision of this Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorized representative of each of the parties.

XVI. SEVERABILITY AND WAIVER

The various provisions and sub provisions of this agreement are severable and if any provision or sub provision or part thereof is held to be unenforceable by any court of competent jurisdiction, then such enforceability shall not affect the validity or enforceability of the remaining provisions or sub provisions or parts thereof in this agreement.

XVII. NOTICES

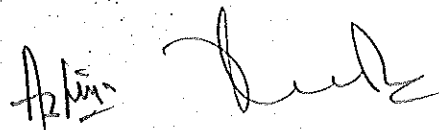
All notices, request, consents or other communications required or permitted to be given to either party pursuant to this Agreement shall be in writing and shall be sent by Registered Post with acknowledgement due, Speed post or by courier.

XVIII. ARBITRATION

In case of any dispute arising out of this Agreement, the same shall be referred to Arbitration by any arbitrator appointed by NIELIT. The applicable law for arbitration will be, The Arbitration and Conciliation Act 1996 or any of its statutory modifications or enactments thereof for the time being in force.

The place of Arbitration shall be New Delhi, Delhi State, India for the purposes of this Agreement and the Award shall be binding on the parties. The arbitrator's award shall be binding and may be entered as a judgment in any court of competent jurisdiction. The Courts situated in New Delhi, Delhi State, India shall have the jurisdiction.

Notwithstanding the foregoing, NIELIT and DGET may apply to any court of competent jurisdiction, in respect of any matter relating to a violation of any terms of this Agreement, seeking legal and equitable remedies.



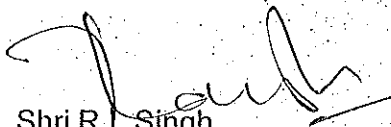
XIX JURISDICTION & GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of India and would come under the exclusive jurisdiction of the Courts in New Delhi, Delhi State, India.

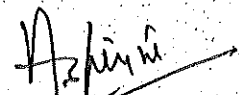
This Agreement shall be executed in duplicate and the original copy of the agreement to be retained by either party to this Agreement.

Any common cost incurred for the execution of this agreement shall be borne by the parties to this agreement equally.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the day and the year first above written and the authorized representative of each of the parties hereto have set and subscribed their respective hand and seal to these present the day and year first herein above written


Shri R.L. Singh,
Deputy Director General,
Directorate General of Employment and Training,
Ministry of Labour & Employment, Government of India,
New Delhi-110001

R.L. SINGH
Deputy Director General (T)
D.G.E. & T., Min. of Labour & Employment
Govt. of India, New Delhi

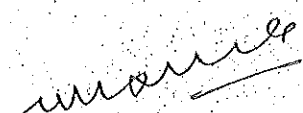

Dr. Ashwini Kumar Sharma,
Managing Director,
National Institute of Electronics and Information Technology
Electronics Niketan,
6, CGO Complex, Lodhi Road
New Delhi - 110 003

Place: New Delhi

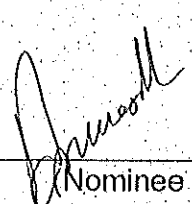
Date: 11/02/2014

Witness:

1.


(Nominee of DGET)

2.


(Nominee of NIELIT)