



महाराष्ट्र MAHARASHTRA

2022

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23 MAR 2023

अनु.क्र. 173562 दि. मु.सु. रक्षण स. 520

दस्तावा प्रकार:-

दस्त नोंदणी करणार आहेत का ? होय/नाही.

पिढकतीचे वर्णन

मुद्रांक विकत घेणाऱ्याचे नांव

पत्ता

दस्तावा पक्षकाराचे नांव

हस्त व्यक्तीचे नांव

मुद्रांक विकत घेणाऱ्याची सही

ज्या कारणासाठी ज्यांनी मुद्रांक खरेदी केला त्यांनी त्याच कारणासाठी मुद्रांक खरेदी केल्यापासून 6 महिन्यात बायबने बंधनकारक आहे.

संजय रंगनाथ जोधरी
परवाना क्र. 2209994
964, कसबा पेठ, पुणे-411016.



EDUCATIONAL SERVICES AGREEMENT

This Educational Services Agreement ("Agreement") is made on the 24th day of March 2023.

BY AND BETWEEN Symbiosis Open Education Society, a Society registered under Societies Registration Act, 1860 bearing Registration No: MAH/806/2008/Pune and a Charitable Trust registered under Bombay Public Trust Act, 1950 bearing Registration No: F/23939 Having its registered Office at: Symbiosis Bhavan, 1065-B, Gokhale Cross Road, Model Colony, Pune - 411016, Hereinafter referred to as "Client" (which expression, shall, unless repugnant to



the subject or context or meaning hereof, be deemed to include its trustees, successors and assigns) of the One Part;

AND Arya Institute of Engg & Tech (Contractor") a

_____ registered under the _____

_____ having its office at SP 40, RIICO

Industrial Area, Kookas, Jaipur-302028

_____ through _____

it's _____, hereinafter referred to as "Contractor" which expression shall, unless repugnant to or inconsistent with the context or meaning thereof, be deemed to mean and include its successors) of the Second Part

"Client" and "Contractor" shall individually be referred to as "Party" and collectively as "Parties" as the context may require.

WHEREAS:

1. The Client is a reputable educational institution engaged in imparting education through open and distance learning mode to all sections of the society.
2. The client is desirous to engage third parties to offer its student support services including student counselling, admission support, infrastructure for assessment, examination and evaluation services, events etc.
3. The client is desirous of availing such services from Contractor.
4. The Contractor, in exchange for valuable consideration as outlined in Article 2, is desirous of providing to the Client and its students, during the term specified in Article 2, auxiliary educational services as set forth in Annexure "A and B" herein ("Services").

NOW THEREFORE AT THE TERMS SET FORTH HEREIN, THIS AGREEMENT WITNESSETH AS FOLLOWS:

Article 1: INTERPRETATIONS

1. Unless otherwise stated or unless the context otherwise requires, in this Agreement:

Headings are for convenience only and shall not affect its Interpretation.

- a. Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase shall have corresponding meanings.
- b. References to the recitals, clauses, schedules and annexes shall be references to the recitals, clauses, schedules and annexes of this Agreement. Further, all the annexure, sub-annexure, clauses, sub-clauses, articles, appendices to this Agreement are part of this Agreement and should be read in conjunction with annexure, sub- annexure, clauses, sub-clauses, and articles of this Agreement.
- c. References to the Agreement shall mean and include an appropriate reference to the schedules and annexes hereto.
- d. Words using the singular or plural number also include the plural or singular, respectively.
- e. Words of any gender are deemed to include the other gender.
- f. Any term or expression used but not defined herein shall have the same meaning attributable to it under applicable law.
- g. References to the word "include" or "including" shall be construed without limitation.
- h. This agreement has been executed in the English and the English language that be the controlling language for interpretation thereof. No other translation, if any, of this AGREEMENT into other languages shall be of any force or effect in the interpretation of this AGREEMENT or in determination of the intent of either of the Parties hereto.

Article 2: DEFINITIONS

1. "Approved Learner Support Centre"/ "Learner Support Centre" (LSC) means an Institute/organization duly appointed under this Agreement to act as a Learner support Centre under the name "CONTRACTOR" to provide the Client's Services, in accordance with the terms outlined in this agreement.
2. "Examination Centre" is part of Learner Support center (LSC) where Contractor supports in



conduction of Clients examination.

3. "Appointment" means the relevant appointment time booked by the Examinee with the Client for a Learning Support and Assessment Exam with specified Learner Support Centre facility using Software.
4. "Approved Learner Support Centre Requirements" means minimum standards of physical and IT infrastructure required by Client to be possessed by CONTRACTORS and as prescribed in Annexure – A & B, in order to ensure an appropriate and effective education for students.
5. "Assessment Exam/Test" means any test, whether proctored or un-proctored, whether leading to a Certification or Qualification or otherwise, that is intended to measure the skill, knowledge, intelligence, capacity, attitude, aptitude or other similar variables of the Examinee with respect to the subject matter thereof.
6. "Assessment Exam/Test Duration" means the maximum time available to an Examinee to attempt answering all items in a particular Assessment Exam/Test, excluding any Exam/Test Information.
7. "Assessment Exam/Test Item" or "Item" means a single question together with its client data, including, but not limited to, possible answers, correct answer, score, feedback, metadata, media files and links to external files.
8. "Assessment Exam/Test Item Bank" or "Item Bank" means a collection of assessment items and Client data.
9. "CONTRACTOR Counsellor" or "CONTRACTOR coordinator" means one or more Contractor's Personnel(s) appointed for providing student support and counseling by the Contractor.
10. "Administrator" or "Proctor" or "invigilator" means one or more Contractor Personnel(s) who undergo/es training provided by the Client and is/are trained by the Client to be sufficiently well-trained and knowledgeable to administer Client's Products and Services on behalf of the Client according to Client's standards.
11. "Availability Schedule" means the time between 8 am and 8 pm on each calendar day (except National holidays) the Contractor selects as being available and open for Counselling or Assessment Exams for selection by potential Examinee(s) as appointments as per the convenience of the student/Examinees. Inventory means the time measured in per Computer Hours. For example, if a Facility keeps 5 computers available for 2 hours for 25 days in a month, it is said to have an inventory of 250 hours that particular month.
12. "Computers" or "Computer" means computers owned or otherwise possessed by the Contractor and physically available in the CONTRACTOR Facility which will be used by Student/Examinees and Contractor Personnel to deliver Client Products and Services off the CONTRACTOR/Test Centre Server to Examinees.
13. "CONTRACTOR Facility" or "LSC Centre" means the premises from which the Contractor will operate and provide Client Services to Student/Examinees and includes CONTRACTOR hall or CONTRACTOR classroom or Computers /Laboratory.
14. "Lab" means the enclosed room within the LSC Facility that contains the computers and where Examinees will be served Client's Services by the Contractor.
15. "Scheduling Software" or "Inventory Software" means the software provided by the Client and used by the Contractor to enter data about the availability hours and days on which the Contractor's LSC Facility is open to help in admission process, take students grievance, support students and accepting appointments from Examinees.
16. "Contractor Personnel" means individuals who are Client with the Contractor in any capacity, including, but not limited to, full-time employee, part-time employee, contractor, consultant, agent, owner, partner, retainer, investor, affiliate, executive or co-venture related directly or indirectly in any manner with the assessment exam and/or any of its processes as outlined in this agreement.
17. "Client Policies, Guidelines and Procedures" or "the Guidelines" are minimum standards that Client requires all LSCs to meet and which are designed to ensure that Examinees are afforded the best possible training and Examination/Test environment, as further described in Annexure A and B;
18. "Client Products and Services" or "Products or Services" means the Admission Material, Admission forms, Admission Brochures, Training Materials, Practice Tests and related products and services developed or distributed by Client from time to time;
19. "Client Customer" means any other organization, which has contracted with the Client to avail the services of the Client with respect to assessment, examination counseling and admission support.
20. "Dispute" has the meaning set forth in Article 4.
21. "Educational Services Agreement" or "This Agreement" means the agreement between Client and a CONTRACTOR authorizing the CONTRACTOR to provide support services to students and deliver Assessment Exam/Tests using the name and logo or the client or its sponsors in accordance with the terms set out herein under.
22. "Effective Date" means: **1st April 2023**
23. "Exam/Test Information" means any information, directions, advise or other material, whether paper or electronic, shown to the Examinee, whether for a fixed duration or otherwise, before or after an Assessment Exam/Test, pertaining to the Assessment Exam/Test, but not containing any Assessment items;
24. "Examinee" means any end user of the Client Products or Services who registers for and appears any Assessment Exam offered at any LSC;



25. "Material Breach" means a breach of a significant term or terms in this Agreement;
26. "Post Exam/Test Printout" or "Printout" means any computer-generated report printed immediately after an Assessment Exam/Test is over, which may be required to be handed over to the Examinee depending on the stated requirements of the Program;
27. "Practice Tests" means Client-owned and/or licensed products that prepare Examinees or aspirants for Exams by simulating the appearance, timing and scoring of actual Exam(s)/Test(s) Exams;
28. "Software" means all software provided by Client to its LSCs or its partners, including without limitation, Computer Based Examination Assessment Software (OAS), LSC Scheduling Software, other software and all related intellectual property including patents, trademarks, business plans, methods, customer lists, manuals and training materials, related to the delivery and administration of Client Products and Services;
29. "Successfully Administered Exam/Test" means an Assessment Exam/Test that was administered to an examinee in accordance with the Guidelines and concluded by an Examinee by submitting his or her answers to the items satisfactorily without any error or interruption or disruption during the Exam/Test and without any grievance or complaint by the Examinee within 15 days of the conduct of such exam/test;
30. "Learner Support services" means any service such as enrollment, counselling, admission process support, induction, conduct of examinations etc. provided to prospective and enrolled students of the client.
31. "Examination Centre Server" means one or more computers owned by the Contractor and connected to the contractor's local area network, which will run software such as Computer Based Online Examination Assessment Software (OAS) and other software related to the delivery and administration of Client Products and Services and which will be used to deliver Client Products and Services to Examinees through LSC Computers.
32. "Unsuccessful Exam/Test" means an Assessment Exam/Test that was not administered to an examinee or not concluded by an Examinee completely or satisfactorily, or led to a grievance or complaint by the Examinee which remained unresolved after 15 days of the conduct of such exam/test, whether due to an error or disruption or interruption or other deficiency of service by Contractor, whether foreseen and controllable or unforeseen and uncontrollable.

Article 3: AGREEMENT

1 Term:

The Agreement is commencing from 1st April 2023 and ending on 31st March 2024 unless and until the agreement is renewed in writing (based on mutually accepted scope and terms), the same will automatically terminate on the above mentioned later date. The agreement may be extended for further period with mutual consent.

2 Scope of Services:

Contractor's accountabilities and deliverables will be as per the scope of services annexed in Annexure A and Annexure B and its appendices, which forms an integral part of this Agreement.

3 Termination:

This Agreement can be terminated in following circumstances by Client with immediate effect:

1. Any misrepresentation of any kind about Client, its courses, its legal status, course fees, course structure.
2. Any publication / Public communication / use of Symbiosis / Client, name, logo associating the Contractor or any employee of the Contractor with Client without prior written permission from Client will lead to termination immediately and appropriate legal action against the Associate.
3. Any discrepancy in accounts shall result in immediate suspension until issue is settled.
4. Non-Compliance of any of the above terms and conditions shall result in immediate termination without any notice.
5. Any instance of fraud, gross negligence or wilful default by Contractor.
6. Commencement of any proceedings for bankruptcy, insolvency or liquidation of the Contractor.
7. Any offence punishable under law by the Contractor.

On and upon termination of this Agreement, the Contractor shall forthwith return all material (print / electronic) / documents / brochures etc. in its possession, which bears the trade mark, logo of Client including but not limited to Prospectus, Application Forms, Receipts, Promotional Material, Authorization Certificate etc. It shall also return any communication, letter, circular, notification, order or any other communication / document sent from Client from time to time. It shall also delete any such record as mentioned above if existing in electronic / print form and certify such deletion in writing. It is agreed by the Contractor that until such return is done or deletion is made, the Contractor shall not be entitled to receiving refund of their deposit amount. Contractor alone is liable to bear all the expenses towards such return and deletion. The Client



reserves the right to revoke the recognition of the Contractor in the event of the Learner Support Centre performing below par. Even if the Contractor's recognition is revoked before the tenure, it is the Contractor's responsibility to continue providing support to the admitted students till the end of the programme.

The agreement is terminable by either party by giving 30 days' notice. Either party is not bound to give any reason thereof. Upon expiry or premature termination of this Agreement, neither Party shall be liable to the other Party hereunder for amounts representing for any consequential, remote, indirect, special, incidental or punitive loss, damage, compensation, costs, charges or expenses (including without limitation, loss of profits, loss of opportunity arising there from, etc.) on account of the said termination. The termination of this MOU, for whatever reason, will not affect the rights and obligations of a Party, which might have accrued at the date of termination/expiration and will further not affect any rights and obligations, which specifically or by their nature survive the termination or expiration of this Agreement.

4. **Commercials:**

- a) Contractor shall keep record/ books of accounts as desired by CLIENT in the format as prescribed, and shall make available its record/books of accounts to CLIENT or its representative for transparent operations of CONTRACTOR from time to time.
- b) Contractor is not entitled to collect any other fees or any money / amount from the prospective student on any account whatsoever. (At present we are getting our online admission process of CLIENT from one admission process centre with reasonable processing charges.)
- c) Client and the Contractor shall settle the accounts once in a month.
- d) Client holds the right to send its accountant/representative to Contractor to settle accounts, verify all books as maintained by Client from time to time. Client agrees to entertain this activity at all times.
- e) Contractor has to submit the invoice in the prescribed format as shared by the Client, as per the prescribed timelines.
- f) Records of daily inquiries, admission or examinations have to be sent to Client by the Contractor at the end of the day.
- g) Detail commercials charges are mentioned in Annexure A and Annexure B.

5. **Amendment of Agreement:**

This Agreement specifies the responsibilities of the Parties. However, throughout the Agreement's operation, events can occur that would necessitate changes or amendments to the Agreement. These adjustments/modifications shall be mutually agreed upon and approved as "Appendix A-B or Addendum to the MOU." These changes/modifications will be jointly discussed and agreed upon in writing, and they won't take effect until they're signed by the respective parties' lawfully authorized representatives.

6. **Indemnity clause:**

Contractor has agreed to bear the responsibility for any third party claims, demands, proceedings, prosecutions, or actions against Client, arising out of and as a result of any breach, callous, negligent, deficient action or omission by Contractor and has undertaken to keep Client indemnified against all losses and damages suffered including expenses incurred by Client while defending the claim (inclusive or legal expenses) as a result of any such claim, demands, proceedings, prosecutions or actions.

7. **Professional practice:**

In regards to any topic relevant to this MOU, Contractor and Client shall always act as faithful advisors to one another and shall, at all times, promote and safeguard each other's legitimate interests in any interactions with the third Party.

Article 4: MISCELLANEOUS PROVISIONS

1. **Confidentiality:**

Contractor appreciates that a substantial amount of technical, commercial, strategic and competitive information ("sensitive information") about the Client will be made known/available and will become known/available to the contractor during the term of this agreement. Sensitive information refers to anything(s) owned by (or in the possession of) the Client that is/are not generally known or discoverable through legal Methods and provide a competitive advantage, have economic value or relate to individual privacy. Contractor agrees that all confidential information, clearly marked as such, that is supplied to Contractor during the term of this agreement shall be treated as confidential by the Contractor and its employees. Contractor is forbidden from disclosing the said confidential information to any third person, firm, Organization or organization either directly or indirectly, without the explicit permission of the client.

2. Non-Disclosure:

Contractor will not, at any time, disclose or divulge or make public, except on legal obligation, any information regarding the client's affairs or work carried out whether the same may be made known/available to the contractor or become known/available to contractor in the course of the aforementioned services or otherwise. A disclosure of items from the Client's item bank in any form by any means by Contractor or its personnel whether intentionally or otherwise will be a violation of this confidentiality clause as it undermines the integrity and security of the Client's Products and Services and the sanctity of examinations in general. Any unauthorized access, reproduction, distribution, or disclosure of items from the Client's item bank by Contractor or its Personnel before, during, or after a test is strictly prohibited and may lead to termination of this agreement and pursuance of available remedies by the Client and/or Client Sponsors, which may include criminal prosecution and / or a civil suit seeking damages.

3. Limited Warranty; Limited Remedies:

Client makes no warranty concerning the Software or the Client Products and Services or any other services or goods provided under this Agreement, and Client hereby disclaims all implied warranties with respect thereto, including without limitation any implied warranty of merchantability, fitness for a particular purpose or non-infringement.

Client shall not be liable to the Contractor for any indirect, incidental, or consequential damages or damages from lost profits or lost use, even if Client is advised as to the prospect of the same. Further, Client shall not be liable to Contractor for any damages arising out of a breach of this Agreement for any amount greater than the equivalent of one month's worth of payment by the Client to the Contractor for services arising out of this Agreement during the term hereof, calculated as an average of the previous 3 month's payments.

4. Agreement Costs:

Stamp duty or registration charges, as applicable, if any, with respect to this agreement and the duplicate thereof shall be borne by the Contractor. The original shall be retained by the Client and the Contractor shall retain the duplicate.

5. Materials:

Contractor may be issued some materials by the Client such as admission brochures, application forms, admission related marketing material (like leaflets, brochures flyers), test Centre server, business stationery, documents, etc. which will remain the property of the Client. Contractor agrees to return them in good shape to the Client upon expiry or earlier termination of the Agreement.

6. No employment:

Nothing in this agreement shall be deemed to create any relationship of partnership, employment, franchising, or joint venture between the Client and the Contractor. Neither Party is authorized, in any manner, to make any commitment on behalf of or to bind the other Party.

7. Jurisdiction & Disputes:

The Agreement shall be governed by and construed in accordance with the laws of India. In the event any dispute or difference arises out of or in connection with the interpretation or implementation of this Agreement, or out of or in connection with the breach, or alleged breach of the Agreement (hereinafter referred to as the "Dispute") between the Parties, the Parties shall attempt in the first instance to resolve the Dispute through friendly consultations. In the event, the dispute is not resolved through friendly consultations; the same shall be referred to arbitration to be conducted by a sole arbitrator appointed by the Client. The venue of arbitration shall be Pune and that same shall be conducted according to the provisions of Arbitration and Conciliation Act, 1996. The relevant Courts in Pune shall have exclusive jurisdiction.

8. Assignment:

The Contractor shall not be entitled to, without the prior approval or permission in writing of the Client to assign or transfer either part or whole of any rights, benefits or duties and obligations accruing, undertaken or incurred under this agreement to any other person.



9. Severability:

If any provision of this Agreement is held invalid or unenforceable for any reason, that invalidity or unenforceability shall not affect the validity or enforceability of any other provision of this Agreement.

10. Notice:

Any notice, approval, consent and or other notification required or permitted to be given under this agreement must be in written in English and delivered personally, sent by registered mail with postage fully paid, or sent by facsimile (with postage prepaid) to the address listed below or to such address as may from time to time be given by each Party to the other Party in writing and in the manner previously provided.:

(a). The Deputy Registrar,

Symbiosis Open Education Society

Symbiosis Bhavan, 1065 B, Chatuhshrungi Rd, Model Colony, Pune, Maharashtra 411016

(b).

(Name & Designation of the Authorized Signatory)

*Arya Institute of Engineering & Technology
Jaipur - 302028*

Or to such other address, fax number or e-mail address as either Party may from time to time notify the other in relation to this section. Any notice or communication made by personal delivery or by courier will be conclusively deemed to have been given on the day of actual delivery or, if made or given by fax or e-mail on the first business day following the transmittal of;

11. Force Majeure:

Neither Party shall be responsible for delay or default in the performance of its obligations due to Force Majeure. Force Majeure shall mean contingencies beyond either Party's control such as but not limited to fire, flood, civil unrest, earthquake, war, strikes and Government action / policies detrimental to the interests of either party. If either Party is prevented by such force majeure from performing its obligations under the Agreement, such Party shall promptly notify the other Party of that effect. In the event such Force Majeure has continued to exist for a period exceeding four (4) weeks at a stretch the Parties may mutually decide the future course of action to be taken at their respective sole discretions including terminating this Agreement.

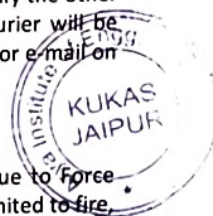
In the event that either party is wholly or partially prevented from or hindered in carrying out or observing any of the terms or conditions of this agreement due to any reason specified in this MOU, such party shall provide written notice to the other party by the most expedient means as soon as possible after the occurrence of the reason relied upon, providing full details of the reason for such prevention or hindrance, and the Parties shall in good faith consult each other.

12. Entirety & Modifications:

This Educational Services Agreement (together with all annexures and documents executed contemporaneously with it or referred to in it) constitutes the entire agreement between the Client and the Contractor in relation to the subject matter and expressly supersedes all prior agreements and understandings whether oral or written with respect to the subject matter hereof. This Agreement shall be altered, modified or supplemented only in writing and duly signed by authorized representatives of the Parties.

13. Compliance with Laws:

Contractor will, at his sole cost, risk and consequence obtain and keep valid, all permissions/authorizations/licenses, if any, required under the local body, state government or central government laws for entering into and performing its obligations under this Agreement. Contractor agrees to conduct its business operations in accordance with all applicable central government, state government, and local body laws and regulations. Contractor shall always comply with all the statutory provisions and other statutory enactments, rules and regulations laid down by the Central or State Government or local body in force or may come into force from time to time which may apply to this agreement. Without prejudice to the generality of the foregoing, the Contractor shall fully comply with the provisions of University Grants Commission (Prevention, prohibition and redressal of sexual harassment of women employees and students in higher educational institutions) Regulations, 2015. The Contractor shall ensure zero tolerance against any cases of sexual harassment. Contractor expressly indemnifies the Client against any action arising out of non-compliance with laws, if any, on the part of the Contractor. Contractor agrees to install and operate only licensed Software and original hardware on all Computers. Contractor agrees that it shall not engage in the Administration of Client Products and Services any person having a criminal background or adverse police record. Contractor understands that committing or facilitating or abetting exam fraud, impersonation, using unfair means or cheating in certain high-stakes examinations may violate some applicable local, state or national law or some regulation having the force of law. Contractor will remain responsible for any such violation of law that may occur in the Learner Support Centre(LSC) and contractor hereby indemnifies and



holds Client and its subsidiaries, affiliates, officers, agents, employees, partners and licensors harmless from any legal action, claim or demand, arising out of such violation of law that may occur in the LSC.

14. Copyright and intellectual property:

Without the other Party's prior written consent, neither Party may use the other's name, trademarks, proprietary terms or symbols, or any other information disclosed under this Agreement in any publication, news release, marketing material, or in any other way.

We have read, understood and accepted all the above Terms and Conditions mentioned in this agreement and annexures there in too for the current Academic Year 2022-2023.

IN WITNESS WHEREOF the Parties have executed this Agreement on the date and the year first hereinabove written.

For and on behalf of Symbiosis Open Education Society (Client)

Name: Mr. Ashish Limgire

Designation: Deputy Registrar

For and on behalf of _____ (Contractor)

Name: _____

Designation: _____

