

**MASTER SERVICES AGREEMENT**

between

**NIIT India**

And

**NIGAR SIDDIQUE**

This Agreement for engagement of Service Provider (hereafter this Agreement) is entered into and executed at New Delhi on this 25 day of November, 2020

**By and Between**

NIIT Limited, a company incorporated under the Companies Act, 1956 having its registered office at 8, Balaji Estate, First Floor, Guru Ravidass Marg, Kalkaji, New Delhi – 110 019 (hereafter referred to as 'NIIT' which expression, unless repugnant to the text or context thereof shall include its successors and assigns) of the First Part;

**And**

Mr/Ms NIGAR SIDDIQUE D/O Raziya Siddique, R/o C-392, GALI NO. 18, NEAR GOVT. SCHOOL, OLD MUSTAFABAD, North East Delhi, Delhi, 110094, India, 31772-- PAN:EHOPS5402K (hereafter referred to as the "Service Provider") which expression shall mean and include his legal heirs, successors, executors, legal representatives of the Second Part;

(NIIT and the Service Provider are hereafter individually referred to as the "Party" and collectively the "Parties")

WHEREAS NIIT is inter alia engaged in the training administration and managed services;

AND WHEREAS, NIIT wishes to receive certain services in relation to training administration and managed services activities to be delivered to NIIT's client (hereafter referred as 'the Client');

AND WHEREAS the Service Provider has warranted and represented that he is competent to provide the services as also he has necessary resource and infrastructure for the same;

AND WHEREAS thus accordingly NIIT has agreed to receive and the Service Provider has agreed to provide certain services on the terms and conditions mentioned hereunder;

**NOW IN CONSIDERATION OF THE PREMISES, MUTUAL PROMISES, COVENANTS, WARRANTIES AND PROVISIONS SET FORTH HEREINAFTER, THE PARTIES HERETO AGREE AS FOLLOWS: -**

## 1. Engagement of the Service Provider and the Scope of the Services

1.1 Subject to the provisions hereof, NIIT agrees to engage the Service Provider for a period of 1 (one) year beginning 25-Nov-2020 till 24-Nov-2021.

1.2 Services: The Service Provider shall provide services to be delivered on behalf of NIIT to the Client, for online proctoring of task-takers taking up assessment for a period and , as may be more particularly communicated by NIIT to the Service Provider by way of Statement of Work (SOW) (herein after referred as 'the Services').

1.3 SOW so issued shall be subject to the terms of this Agreement and incase of any contradiction, the terms of this Agreement shall prevail.

1.4 It is agreed by the Service Provider that the Services provided by the Service Provider shall be of the nature, quality as may be required and stipulated by NIIT. In particular, the Service Provider shall ensure that the Services are provided with the due care and diligence. The responsibility of the Service Provider with respect to the provision of the Services shall continue and be effective until the Services have been actually and effectively provided to NIIT.

1.5 It is expressly understood and agreed between the Parties that the engagement of the Service Provider and the provision of the Services by the Service Provider shall be non-exclusive in nature and NIIT shall have the unqualified and unfettered right to appoint additional Service Providers for providing the Services or such other services that are similar to the Services during the Term.

1.6 The Service Provider shall provide the Services at the NIIT Premises and shall be physically present and deliver the Services for at least 20 hours every week. The number of such hours shall be signed off by a designated representative of NIIT every fortnight.

1.7 The Service Provider agrees with NIIT throughout the Term: -

Not to make any representations or to give any warranties to the clients/customers of NIIT, other than those specifically authorized by NIIT in writing;

Not to delegate any duties or obligations arising under this Agreement otherwise than may be expressly permitted under its terms or authorized by NIIT in writing.

## 2. Nature of the Relationship between the Parties

2.1 It is agreed and understood between the Parties that:

NIIT shall not be liable for any claims or demands from any third party or any liability created by the Service Provider to any third party, for any act done by the Service Provider whether in pursuance of this Agreement or otherwise;

## 3. Consideration Payable to the Service Provider

3.1 In consideration of the performance by the Service Provider of its obligations under a SOW and providing satisfactory Services as per the scope as outlined therein, NIIT shall pay an amount as may be specified in the SOW. The consideration is inclusive of all taxes, including but not limited to Goods & Service tax, service tax, duties etc.

3.2 The consideration shall be payable by NIIT only upon the successful and proper provision of the Services by the Service Provider.

3.3 For the purpose of payment of the Consideration, the Service Provider shall raise an invoice in the name of "NIIT Limited". NIIT shall, after verification and ascertaining the correctness of the statement submitted by the Service Provider, pay the consideration amount within a period of fifteen (15) days of submission of the statement by the Service Provider.

3.4 Payment by NIIT of the consideration amount to the Service Provider in accordance with these Clauses shall be complete discharge to NIIT in respect thereof and in particular the Service Provider shall not be entitled to any other payments or amounts by way of additional fee, charges or otherwise in respect or arising out of the Agreement or otherwise.

3.5 NIIT shall not be liable for payment of any taxes, levies, charges, cess and payments as they may arise or fall due and are payable under the Laws of India in respect of the performance by the Service Provider of his /her obligations hereunder.

#### **4. Protection of Intellectual Property Rights of NIIT**

4.1 Notwithstanding anything to the contrary herein contained, the engagement of the Service Provider pursuant to Clause 1 hereof is limited as stated therein and nothing herein contained shall confer upon the Service Provider any right or interest in the Intellectual Property Rights and the technical knowhow of NIIT beyond those that pertain specifically to the user thereof for purposes of providing the Services. For the purpose of this Agreement the Intellectual Property Rights shall mean all intellectual property rights owned at present or in the future to be owned by NIIT including but not limited to trademarks, trade names, copyrights, marks, and designs, anywhere in the world, whether registered or not.

4.2 Except to the extent as is specifically required for the provision of the Services and agreed to and authorized by NIIT in writing pursuant hereof, the Service Provider disclaims any right or interest in the technical know-how, the Intellectual Property Rights, or the goodwill of NIIT derived therefrom. In relation to the technical know-how, Intellectual Property Rights, or goodwill of NIIT howsoever derived including pursuant to this Agreement, the Service Provider shall not:

assert any right in excess of those conferred pursuant hereunder, or

question, dispute or otherwise assail the validity, right, title, interest of NIIT thereto, or

either directly or indirectly through any other business entities of whatever description employ, claim, assert or holdout any intellectual property right similar to the Intellectual Property Rights of NIIT.

4.3 At all times during the term of the Agreement, the Service Provider agrees and covenants with NIIT:-

Not to cause or permit anything which may damage or endanger the Intellectual Property Rights or other intellectual property of NIIT or NIIT's title to it or assist or allow others to

do so;

To take such reasonable action as NIIT may direct at the expense of NIIT in relation to such infringement;

To hold any additional goodwill generated by the Service Provider as bare trustee for NIIT;

to execute all documents (including but not limited to execution of deed of assignment and statutory forms) and to take such actions that may be required to fully vest intellectual property rights with NIIT.

4.4 For the purpose of this Article, Intellectual Property Rights shall include Intellectual Property Rights of NIIT, its affiliates, clients, partners and/or principals which may be pre-existing or which may be created while the Services are rendered by the Service Provider.

#### 4. **Protection of Intellectual Property Rights of NIIT**

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## 5. Confidentiality

5.1 For the purposes of this Agreement, confidential information shall mean not generally known to the public (i) which NIIT marks as, or notifies the Service Provider to be, a trade secret or confidential information, or (ii) which is recognizable by its nature to be a trade secret or confidential including NIIT Materials, NIIT Data, NIIT Personal Data, any trade secrets or proprietary information concerning NIIT, its personnel, methods, business plans, Software (regardless of its state of completion or form of recordation), data bases, products or product proposals, internally devised technology, and other means used by NIIT in conduct of its business, whether developed, acquired or compiled by NIIT, whether in whole or in part but excluding any information:

Which is or becomes available to the public other than by breach of this Agreement; or

Which is in or comes into the possession of the Service Provider prior to the date of execution hereof and which was not or is not obtained under any obligation of confidentiality; or

Which is required by law or appropriate regulatory authorities to be disclosed, provided that the NIIT is notified of any such requirement at least five days prior to such disclosure and the disclosure is limited to the minimum extent possible. (Hereafter referred to as "Confidential Information")

5.2 During the Term hereof and for a period of three years after the expiry or the termination of this Agreement, the Service Provider agrees to:

Use all Confidential Information solely for the purpose and in accordance of this Agreement;

Treat and hold as confidential (and not disclose or provide access to any third parties) all Confidential Information;

Furnish to NIIT, as soon as practicable, following the termination of this Agreement for whatever reason any, all copies (in whatever form or medium) of all Confidential Information then in the possession of the Service Provider including all additional copies then in the possession of Service Provider of such information and of any analyses, compilations, studies or other documents prepared, in whole or in part, on the basis thereof.

5.3 For the purpose of this Clause, Confidential Information shall include Confidential Information of NIIT, its affiliates, the Client, partners and/or principals.

5.4 Service Provider will not, without the prior written consent of NIIT/ the Client disclose to any other person / firm, the fact that confidential information that may have been disclosed to Service Provider in terms of this Agreement.

5.5 The Service Provider shall be obliged to the following additional obligations in case if an SOW is issued to him for providing services relating to online proctoring:

Service Provider agrees and will be bound not to indulge in communicating/commenting on personal appearance, ask for personal questions/interacting with the test-takers apart from the process. If Service Provider is found doing so, the same will amount to the breach of this Agreement apart from the same squarely falling under Sexual harassment. In such case, this Agreement may also be terminated with immediate effect without any prior consent.

Service Provider will restrain from contacting the test-takers through any mode of communication/Media/Social Media/Mail/Mobile/Facebook/Twitter/any other external means of communication. If it is found that Service Provider have breached such obligation, Service Provider will be liable to pay the fine of Rs 15,00,000 (fifteen lakh) as damage charges apart from the other legal actions.

Service Provider understands that the obligations specified herein are necessary and reasonable in order to protect interest, concern and reputation of the client and its business, and Service Provider agree that monetary damages alone would be inadequate to compensate the client for any breach by Service Provider of the covenants set forth herein.

5.6 Service Provider agree and acknowledge that violation or threatened violation of his obligation under this Clause 5 will cause irreparable loss and injury to the Client and that in addition to any other remedy that may be available, in law, in equity or otherwise, NIIT or the Client shall be entitled to obtain injunctive relief against the threatened breach of Service Provider's obligations or the continuation of any such breach by Service Provider without the necessity of proving actual damages.

## 6. **Non-Compete and Non-Solicitation**

6.1 In consideration of the mutual premises, promises, covenants and agreements between Parties pursuant hereof, the Service Provider covenants, promises and undertakes that the Service Provider shall not, during the subsistence of the Term hereof and for a period of 2 (two) years from the end of Term or the termination hereof, as the case may be, engage, directly or indirectly, whether as owner or shareholder, in any business:

That involves solicitation or acceptance (either on his own account) or as agent of any other person or as the customer of any person in respect of the business of NIIT pursuant hereunder; or

That involves inducing, soliciting or endeavoring to encourage any person who is an employee of NIIT to leave the services or employment of NIIT.

6.2 The Service Provider acknowledges that the provisions of this Clause are reasonable and are entered into for the purpose of protecting the goodwill of NIIT and that accordingly, these benefits hereof may be assigned by NIIT to its successor in title or interest without the consent of the Service Provider.

6.3 The Service Provider agrees that any breach of the Service Providers obligations under Clause 4, 5 and 6 shall cause irreparable loss to NIIT and NIIT shall be at liberty to take whatever steps necessary including approaching competent courts for injunctory reliefs to check any such breach on part of the Service Provider.

## 7. Term and Termination

7.1 The Agreement shall be effective for the term as mentioned in Clause 1.1 of this Agreement (hereinbefore and hereafter the "Term"), and shall automatically stand terminated by efflux of time unless specifically extended in writing by NIIT prior to the expiry of the Term.

7.2 NIIT may at any time during the Term hereof and without assigning any reason whatsoever, terminate the Agreement by issuing a written Notice to the other Party, at least 15 (fifteen) days in advance.

7.3 Notwithstanding anything contained herein above, NIIT shall have the right to terminate this Agreement forthwith on the happening of any of the following events:

any breach by the Service Provider of any of its obligations set out in this Agreement; or  
the commission or omission by the Service Provider of any act which brings disrepute to or is not in the best business interest of NIIT; or

assignment by the Service Provider of its obligation hereunder to any other third party without taking prior consent of NIIT; or

failure by the Service Provider to perform its obligations under this Agreement through incapacity or due to any other reasons; or

failure by the Service Provider to provide the Services to the complete satisfaction of NIIT.

7.4 Upon the expiry of the Term or on termination of the Agreement in accordance hereof:

Parties shall have no rights under this Agreements and be relieved and discharged from all other liabilities, obligations or claims hereunder except such liabilities and rights as have accrued prior to termination or are intended by the terms hereof to survive termination;

Service Provider shall deliver back to NIIT all materials belonging to NIIT which may be in the possession of the Service Provider;

Service Provider shall return to NIIT all originals and copies of all documents and information in any form, containing or covering in any way any part of the Intellectual Property Rights;

Service Provider shall furnish to NIIT, any and all copies of all Confidential Information then in the possession of the Service Provider and destroy any and all additional copies



thereof, and of any analyses, compilations, studies or other documents prepared, in whole or in part, on the basis of such Confidential Information;

Service Provider shall continue to abide by such terms of the Agreement that are intended to survive its Term or termination.

## 8. Indemnity

At all times during and after the Term, both the parties agrees to indemnify, defend and hold harmless the other from and against any and all losses which may be incurred or suffered by any such party and which may arise out of or result from any breach of this Agreement.

## 9. Limitation of Liability

In no event shall NIIT be liable for any indirect, special, incidental, or consequential damages (including lost profits) directly or indirectly relating to or arising out of the breach of this Agreement, regardless of the form of action, whether in contract, tort, strict liability, or otherwise, and whether or not such damages were foreseen or unforeseen, even if either party has been advised of the possibility thereof.

## 10. Miscellaneous Provisions

10.1 **Amendment:** This Agreement may not be amended or modified except by an instrument in writing signed by, or on behalf of, NIIT and the Service Provider.

10.2 **Assignment:** The Service Provider shall not assign this Agreement or of any of its rights or obligations hereunder in whole or in part without the prior written consent of NIIT. Any assignment of the Agreement or any of the rights or obligations hereof contrary to this Article shall render the Agreement null and void.

10.3 **No Partnership/Agency:** Nothing in the Agreement shall be construed as creating an agency, partnership or joint venture between NIIT and the Service Provider. Subject to the provisions hereof, neither Party will be deemed to be an agent of the other Party as a result of any transaction under or related to the Agreement, and will not in any way pledge the other Party's credit or incur any obligation on behalf of the other Party except with prior written consent of the other Party.

10.4 **No Employer-Employee Relationship:** The Service Provider understands and acknowledges his status as an independent service provider and therefore nothing in this agreement shall be construed to have created any relationship of employer and employee between the parties.

10.5 **Waiver:** NIIT may (a) extend the time for performance of any of the obligations or other acts of the Service Provider, (b) waive any inaccuracies in the representations and warranties of the Service Provider contained herein or in any document delivered by the Service Provider pursuant hereto or (c) waive compliance with any of the clauses of the Agreement. Any such extension or waiver shall be valid only if set forth in an instrument in writing signed by NIIT to be bound thereby. Any waiver of any term or condition shall not be construed as a waiver of any subsequent breach or a subsequent waiver of the same term or condition, or a waiver of any other term or condition, of this Agreement.

The failure of NIIT to assert any of its rights hereunder shall not constitute a waiver of any such rights.

10.6 **Notice:** Any Notice, under or in connection hereof shall be written in English and be sent by hand delivery, courier or prepaid registered post at the Notice Address.

For the purpose of this clause, Notice Address means,

**In case of NIIT:**

NIIT Ltd.  
A-24, Confluence Building,  
Infocity Information Technology Park,  
Sector 34, Gurgaon, Haryana 122001  
Kind Attn.: Rajiv Arora  
E-Mail: [Rajiv.Arora@niit.com](mailto:Rajiv.Arora@niit.com)

**In case of the Service Provider:**

Address mentioned in the beginning of this Agreement.  
E-Mail:

10.7 **Governing Law and Jurisdiction:** The validity, the performance and the interpretation of this Agreement and all actions related hereto shall be governed by the Laws of India and Courts of Delhi shall have exclusive jurisdiction in respect of any matters arising under or in relation to this Agreement.

10.8 **Entire Agreement:** This Agreement constitutes the entire agreement between the Parties and the Parties agree that there are no other understandings, record note of discussions, papers, representations, warranties or oral agreements relating to the subject matter of this Agreement.

10.9 **Arbitration:** All disputes, difference or disagreement arising out of, in connection with or in relation to this Agreement shall be finally decided by arbitration to be held in accordance with the provisions of the Delhi International Arbitration Centre (Arbitration Proceedings) Rules of Delhi International Arbitration Centre (DAC) in force as at the date of the invocation of the arbitration. The venue of arbitration shall be New Delhi. The language of arbitration shall be in English. The arbitral award shall be final and binding upon both the Parties. The Parties shall bear their all respective costs and expenses of such proceedings.

10.10 **Survival:** The respective obligations of the Parties under this Agreement that by their nature would continue beyond the termination, cancellation or expiration, shall survive any termination, cancellation or expiration.

10.11 **Severability:** In the event where any of the provisions, or portions or applications thereof, of this Agreement are held to be unenforceable or invalid by any court of competent jurisdiction NIIT and the Vendor shall mutually agree upon a reasonable adjustment in such provisions of this Agreement with a view toward effecting the purpose of such provisions of this Agreement, and the validity and enforceability of the remaining provisions, or portion or applications thereof, shall not be affected thereby.

10.12 **Data Protection:** The Service Provider shall comply with the GDPR requirements as described at [https://partner.training.com/terms/NIIT\\_GDPR.pdf](https://partner.training.com/terms/NIIT_GDPR.pdf) or any other applicable Data Protection requirements as may be communicated by NIIT.

**IN WITNESS WHEREOF**, the Parties hereto have executed these presents on the day, month and year first above written.

For **NIIT Limited**

**Service Provider**

Signature: \_\_\_\_\_  
\_\_\_\_\_

Signature: \_\_\_\_\_  
\_\_\_\_\_

Designation: \_\_\_\_\_  
\_\_\_\_\_

Name: Vivek Kashyap

Name: NIGAR SIDDIQUE

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

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

**Witnessess:**

1.

2.

Name:

Name:

Address:

Address: