

CORRIGENDUM

After due consideration, following modifications/additions is being made to the Tender Document of the Selection of Agency for Digital Evaluation of answer books.

- 1.** **The Note at page 131 of Tender Document** is modified as "The committee may send show cause notice for forfeiture for PBG and Termination of contract".
- 2.** Further clause c of page 131 is also modified as "If any of the mistake from "Other Mistakes" is repeated by bidder, then CBSE reserve the right for forfeiture for Security Deposit, and Termination of contract."
- 3.** The Proposed Legal Provisions To Be Incorporated In The Tender Document For Digital Scanning is attached below
- 4.** The last date for submission of Bids is being extended to 30/09/2025

Sd/-

Administration,CBSE

PROPOSED LEGAL PROVISIONS TO BE INCORPORATED IN THE DRAFT RFP DOCUMENT FOR DIGITAL SCANNING.

CONFIDENTIALITY:

- (i) The BIDDER and CBSE shall keep all material related to examination and other information as confidential and shall not share such information to any third party in any manner, whether within and beyond the period of this contract.

In the event of any of the parties becoming legally compelled to disclose any confidential information, such party shall give sufficient written notice to the other party so as to enable the other party to seek a timely protective order or any other appropriate relief.

- (ii) BIDDER and CBSE shall keep all the vital information of confidential and sensitive examination material including commercial confidence, trade secrets or intellectual property, the disclosure of which would harm the sanctity of public examination system under this contract unless the competent authority is satisfied that larger public interest warrants the disclosure of such information under RTI Act 2005.
- (iii) Confidential Information or Information shall mean all information, know-how or material in any form relating to or provided by CBSE which becomes known or is provided to BIDDER as a result of the course of dealings between them which is by its nature confidential, is designated by CBSE as confidential or which the BIDDER reasonably know is confidential, including any non-public, commercially sensitive or secret information relating to CBSE's business, marketing, commercial, financial and technical data, trade secrets, data, operations, customers, stakeholders, activities, planning, investigations, products, services, analysis, reports and the contents of this contract, but does not include any information to the extent the Bidder can show the relevant information:
 - (a) Which is publicly known at the time of disclosure or becomes publicly known other than through a breach of this MoU;
 - (b) Is already or comes in the unrestricted possession of the recipient without there having been any breach of a third party's obligations of confidentiality.

EFFECTIVE DATE AND VALIDITY:

- (i) This Contract shall be valid for a total period of 01 (one) years from the date of both parties signing of the Contract.
- (ii) The validity of the Contract may be extended by mutual consent in writing and signed by both the parties.
- (iii) This Contract may be terminated before expiry of the period of the agreement with mutual consent of both parties.

Termination shall not affect any of the financial and other commitments entered into between the parties prior to the date of termination and no future financial & other obligation shall be entered into from the date of receipt of notice of termination, if such termination or suspension occurs with mutual consent.

BREACH, RECTIFICATION AND TERMINATION:

A material breach would be defined as a serious violation of the terms & conditions and obligations under this Contract by any party which affects the performance of scope and T & C of the Agreement, leading to non-fulfillment by purpose/ objectives of this agreement.

(i) If Bidder, due to any delay beyond its control and through no fault of CBSE or force majeure, fails to carry out the activities under this contract and as per T&C or mutual discussion by the parties and agreed upon, such the rectification shall be conducted by Bidder within reasonable time as decided upon with CBSE.

(ii) If there is a breach which translates into default as per this MoU, in the services to be provided by BIDDER and result in default of above mentioned services except under the force majeure conditions and delays beyond control by BIDDER as per this MoU, the same shall be rectified by BIDDER within a period of 3 days from date of intimation of the breach. In case the rectification is not carried out within 3 days of the applicability of the non-executable clause, it would constitute a material breach by BIDDER, which shall entitle CBSE to, at its sole option terminate this MoU on the expiry of such stipulated period, unless BIDDER has in the meantime rectified, removed or cured, as the case may be, such material breach.

(iii) If there is a breach or deficiency of information to be provided by CBSE which translates into default as per this MoU except due to force majeure conditions and delays beyond control by CBSE, the same shall be rectified by CBSE within a period of 03 days from date of intimation of the breach or deficiency of information/inputs, as the case may be.

In case the rectification is not carried out within 03 days of the applicability of the non-executable clause, it would constitute a material breach by CBSE, which shall entitle BIDDER to, at its sole option terminate this MoU on the expiry of such stipulated period, unless CBSE has in the meantime rectified, removed or cured, as the case may be, such material breach.

INTELLECTUAL PROPERTY RIGHTS:

(i) Any and all intellectual property created solely in relation to or arising out of this MOU during the validity of MOU, or prior or after to the MOU, or after the termination of MOU shall be under the sole and exclusive ownership of CBSE. Ownership of any and all intellectual property created / developed through collaborations under this MOU for the said Project, will be determined between the Parties herein through mutual consultation and recorded in writing as an addendum/amendment/MOU separately on a case- to -case basis prior to starting of work.

IPR of any software which is developed/enhanced/customised on the basis of an existing software/application will belong to Bidder. Use of these softwares would generally be provided in Software as a service model and source code of the same would be shared by Bidder with CBSE.

(ii) Intellectual Property shall mean all intellectual property rights and interests (including common law rights and interests) in any jurisdiction including (without limitation):

- (a) patents, trade-marks, trade names, service marks, registered designs and all goodwill rights associated with such works, copyright, circuit layouts, domain names, symbols and logos;
- (b) patent applications and applications to register trade-marks, service marks and designs; and
- (c) know-how, ideas, concepts, tools, techniques, computer program code, source code, data, inventions, discoveries, developments, trade secrets, information and logical sequences (whether or not reduced to writing or other machine or human readable form); but does not include any pre-existing Intellectual Property Rights of either party or any Third Party Intellectual Property Rights, except to the extent the same form part of the Deliverables or is embedded in that.

DISPUTE RESOLUTION AND ARBITRATION:

(i) In case any dispute/claim arises between the Parties with respect to the MOU, including its validity, interpretation, implementation or alleged material breach of any of its provisions or regarding a question, including the questions as to whether the termination of this MOU by one Party hereto has been legitimate, both Parties hereto shall endeavor to settle such dispute amicably.

(ii) If at the time of occurrence of dispute, then the Dispute shall be referred to the sole arbitrator appointed mutually agreed by Bidder and CBSE. In that case, Arbitration proceedings shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and Rules made there under, or any legislative amendment or modification made thereto.

The award given by the arbitrator shall be final and binding on the Parties.

The language of arbitration shall be English.

The common cost of the arbitration proceedings shall initially be borne equally by the Parties and finally by the Party against whom the award is passed. Any other costs or expenses incurred by a Party in relation to the arbitration proceedings shall ultimately be borne by the Party as the arbitrator may decide.

The venue of the arbitration shall be at New Delhi.

Courts in Delhi only shall have the exclusive jurisdiction to try, entertain and decide the matters which are not covered under the ambit of arbitration.

GOVERNING LAW:

This MOU shall be governed by and interpreted in accordance with the laws of India as may be applicable to the parties and its amendment from time to time read with rules/regulations framed thereunder.

FORCE MAJEURE:

(i) Neither party to this MOU shall be liable to the other party for any delay or failure on its part in performing any of its obligations under this MOU resulting from any cause beyond its reasonable control, including but not limiting to strikes, riots, civil commotion, embargo, failure to act by any Government, semi-Governmental or judicial entity, or other concerted actions of Workmen, material shortages, public mains electrical supply failure, nuclear accidents, fire, floods, earthquake, epidemic, pandemic, quarantine, landslide, explosions, unavoidable accidents, expositions, acts of God, acts of state, court orders in rem, war, enemy action or terrorist action etc. or any other similar cause beyond the reasonable control of the party concerned including disapproval by the government authorities.

(ii) If either party is prevented, hindered or delayed from or in performing any of its obligations under the Contract by an event of Force Majeure, then it shall notify the other in writing of the occurrence of such event and the circumstances thereof within three (03) days after the occurrence of such event. The party who has given such notice shall be excused from the performance or punctual performance of its obligations under the Contract for so long as the relevant event of Force Majeure continues and to the extent that such party's performance is prevented, hindered or delayed. The time for completion shall be extended by a reasonable time.

The party or parties affected by the event of Force Majeure shall use reasonable efforts to mitigate the effect thereof upon its or their performance of the Contract and to fulfill its or their obligations under the Contract. If the performance of the Contract is substantially prevented, hindered or delayed for a single period of more than sixty (60) days or an aggregate period of more than one hundred and twenty (120) days on account of one or more events of Force Majeure during the currency of the Contract, the parties will attempt to develop a mutually satisfactory solution.

INDEMNIFICATION:

Either party shall keep other party, its affiliates, shareholders, officers, directors, employees, agents, representatives and customers indemnified and harmless from and against any and all costs, liabilities, losses and expenses (including, but not limited to, reasonable fees of attorneys) arising out of any claim, suit, action or proceeding, for any act(s) and omissions of such party under any proposal(s) to Prospective client(s) or any resulting contract(s) therefrom or any incidental matter or in any way arising therefrom.

ASSIGNMENT AND TRANSFER:

Any and all rights, duties and obligations of the parties under this MOU shall not be transferred or assigned by either party to any third party without prior written consent of the other party.

SEVERABILITY:

The invalidity or unenforceability of any provision of this MOU shall not affect the validity or enforceability of any other provision of this MOU that shall continue in full force and effect except for any such invalid and unenforceable provision.

LIMITATION OF LIABILITY:

In no event will BIDDER or CBSE be liable to each other for any incidental, consequential, special, and exemplary or direct or indirect damages, or for lost profits, lost revenues, or loss of business arising out of the subject matter of this MOU, regardless of the cause of action, even if the party has been advised of the likelihood of damages, if it is unintentional and beyond reasonable control.

MODIFICATION:

No modification to this MOU will be effective unless agreed to in writing by both Parties and duly signed by the authorized signatories of the Parties.

ENTIRE MEMORANDUM OF UNDERSTANDING:

This MoU sets forth the entire understanding of the Parties with respect to the subject matter hereof and the T and C or any other communications in furtherance thereof, shall be part and parcel of this MoU.
