

MOU/Agreement

This Corporate Social Responsibility MOU/Agreement (“MoU” OR “**Agreement**”) is made on _____, _____]at _____, to be effective from [_____] (hereinafter referred to as the “**Effective Date**”) by and between:

_____ **Private Limited**, a company incorporated under the Companies Act, 1956 and having its registered office at (.... or “**First Party**” which expression shall, unless excluded by or repugnant to the context, be deemed to include its successors, administrators, heirs, assigns and nominees) of the First Part;

AND

Indian Institute of Technology Kanpur, an institution incorporated under “The Institute of Technology Act, 1961 (amendment by Institute of Technology (Amendment) Act, 1963)” and having office address at P.O. IIT Kanpur, Kanpur - 208016, hereinafter referred to as “IITK”, which expression shall, unless it be repugnant to the context or meaning thereof, be deemed to mean and include its successors and permitted assigns of the Second Part;

The First Party and the Second Party shall hereinafter individually be referred to as a “**Party**” and collectively as the “**Parties**”.

RECITALS

Whereas pursuant to Section 135 of the Companies Act, 2013 (“**Act**”) read with the Companies (Corporate Social Responsibility Policy) Rules, 2014 (“**Rules**”) each company which falls under any of the specified criteria is required to adopt a corporate social responsibility policy (“**CSR Policy**”) and shall endeavour to spend a minimum of 2% (two percent) of its average net profits during 3 (three) immediately preceding financial years on CSR activities as prescribed in Schedule VII to the Act, as amended from time to time (“**CSR Activities**”).

A. Whereas the First Party has formed a CSR committee in terms of Section 135 of the Act, (“**CSR Committee**”) to: (i) formulate and amend, from time to time, the CSR Policy; (ii) recommend and undertake such CSR Activities as approved by the Board of Directors of the First Party; (iii) prepare and recommend the amount of expenditure required to be incurred on CSR Activities; (iv) monitor the CSR Policy and implementation of CSR Activities in terms of; and (v) prepare and submit reports on the progress of CSR Activities.

B. Whereas pursuant to the recommendation of the CSR Committee, the First Party has adopted the Policy on Corporate Social Responsibility (“**CSR Policy**”), a copy of which has been provided to the Second Party; The ... CSR Policy is in line with the CSR objectives set under Schedule VII of the Companies Act, 2013.

C. Whereas the First Party, has agreed to provide or make available funds or consumables or goods or equipment or materials or assets etc. or a combination thereof (individually or collectively referred to as “**Funding**”) to the Second Party for developing, implementing, executing, conducting, coordinating and carrying out CSR Activities subject to compliance with the terms and conditions of this Agreement and in the manner and form specified in **Schedule I** hereto.

D. Whereas it is agreed between the Parties that pursuant to this Agreement, any one or more existing or future Group Companies (as defined below) of the First Party may provide Funding to the

Second Party for developing, implementing, executing, conducting, coordinating and carrying out CSR Activities by executing the form specified in **Schedule I** and complying with in the terms and conditions stipulated in this Agreement.

NOW THEREFORE, GOOD AND SUFFICIENT CONSIDERATION, IT IS HEREBY AGREED BETWEEN THE PARTIES AS FOLLOWS:

1. DEFINITIONS & INTERPRETATION

In this Agreement, unless the context otherwise requires:

- 1.1. **“Applicable Laws”** shall mean only Indian Laws including, statute, ordinance, rule, regulations, policies and other judicial decision or orders (having the force of law), whether Central, State or local or other authority in force in the republic of India and as amended from time to time;
- 1.2. **“Effective Date”** shall mean the date of commencement of this Agreement, as specified above;
- 1.3. **“Term”** shall mean the duration of this Agreement as specified in clause 2.1 , unless terminated earlier in accordance with this Agreement;
- 1.4. the recitals hereinabove written shall be treated as, and shall form part of the operative portion of this Agreement;
- 1.5. a reference to a clause or schedule is, unless indicated to the contrary, a reference to a clause or Schedule, as the case may be, of this Agreement;
- 1.6. the Schedules to this Agreement shall form an integral part of this Agreement and shall be read along with this Agreement;
- 1.7. the headings in this Agreement are for ease of reference only and do not affect its interpretation;
- 1.8. any word denoting the singular shall include the plural and vice versa;
- 1.9. words denoting a person shall include an individual, corporation, company, partnership, trust, body of individuals or any other entity;
- 1.10. references to dates and times shall be construed to be references to dates and time in India, unless the context expressly or by necessary implication otherwise requires;
- 1.11. any phrase using the terms “including”, “include”, “in particular”, “for example”, “such as”, “etc.” or any similar expression shall be construed as illustrative and not as exhaustive;
- 1.12. certain capitalized terms are defined in this Agreement and its Schedules and whenever such terms are used in this Agreement or its Schedules, they shall have their respective defined meanings, unless the context expressly or by necessary implication requires otherwise;
- 1.13. any reference to the Second Party shall also be treated as a reference to the managing committee, governing body, trustees, board members, promoters, directors, staff, personnel etc. (as the case may be) of the Second Party, unless the context expressly or by necessary implication requires otherwise .

2. COMMENCEMENT, VALIDITY AND RENEWAL

2.1. This Agreement shall commence on the Effective Date and shall remain valid for a period of Five years (“Term”).

2.2. This Agreement shall stand expired by the efflux of time on the last day of the Term, unless renewed in writing by the authorized representatives of the Parties.

3. REPRESENTATIONS AND WARRANTIES

The Second Party represents and warrants that:

3.1. it is an established educational Institute legally constituted in accordance with all Applicable Laws having valid registrations, certificates, permissions, sanctions, licences, approvals, renewals etc. in accordance with all Applicable Laws, for developing, implementing, executing, conducting, coordinating and carrying out CSR Activities.

3.2. it has the necessary experience, expertise and established track record in the Higher education field and is capable of associating with for undertaking CSR obligation relating to promotion of education in compliance with the provisions of the Act, as amended from time to time.

3.3. it possesses the ability to perform its obligations and responsibilities under this Agreement in accordance with the terms and conditions contained herein

4. INSTRUCTIONS TO & OBLIGATIONS OF SECOND PARTY

4.1. Project: The Second Party shall develop, implement, execute, conduct, coordinate and carry out, from time to time, one or more project(s) listed in Schedule I (“Project”) as CSR Activities in accordance with this Agreement. In case more than one Project is being developed, implemented, executed, conducted, coordinated and carried out by the Second Party, or in case the same project is being developed, implemented, executed, conducted, coordinated and carried out in more than one geographic area, Schedule I shall be prepared separately for each individual Project and marked as Schedule I A, Schedule I B etc. No variation in the Project scope shall be made by the Second Party, unless previously agreed to in writing by First Party.

4.2. Project Implementation Plan: The Project shall be implemented by the Second Party as per the Project Implementation Plan specified in Schedule II (“Project Implementation Plan”) in accordance with this Agreement from time to time. In case more than one Project is being developed, implemented, executed, conducted, coordinated and carried out by the Second Party, or in case the same project is being developed, implemented, executed, conducted, coordinated and carried out in more than one geographic area, Schedule II shall be prepared separately for each individual Project and marked as Schedule II A, Schedule II B etc. No variation in the Project Implementation Plan shall be made by the Second Party, unless otherwise agreed to in writing by First Party.

4.3. Use of Funding: First Party and its Group Companies (as the case may be), shall under the CSR Policy, provide Funding to the Second Party (in the manner and form specified in Schedule I) for developing, implementing, executing, conducting, coordinating and carrying out one or more Project in accordance with this Agreement and the instructions and directions issued by First Party (or any of its Group Company referred to in Schedule I) from time to time.

4.4. Any Funding for a Project shall be utilized in an efficient and judicious manner and only for the objective for which the Funding is given (as specified in Schedule I) and such Funding shall not be diverted, transferred or used for any other purpose without the prior written consent of First Party (or any of its Group Company referred to in Schedule I, as the case may be). Further, Second Party shall not use more than 5% of the Funding amount towards administrative cost. Any expense towards administrative work for a Project should not cross beyond 5% of the Funding amount. Any unspent or unutilized Funding from the list of activities to be undertaken as mentioned in Schedule –I shall be given following effect

a) Shift the CSR Spend to alternate activity/ project

b) If still unspent will be informed to First Party and shall be disbursed as per instructions of the first party. It is obligatory on the Second Party to inform the First Party about the status of fund utilisation by 31st March of every financial year. The unutilised fund will be carried forward to the next financial year.

4.5. First Party shall not provide any additional Funding in respect of work done outside the Project scope and/or after the expiry or earlier termination of this Agreement and takes no responsibility whatsoever for any such work.

4.6. The Second Party shall be fully responsible for any other cost or expense incurred in connection with its performance of its obligations under this Agreement.

4.7. The Second Party shall not utilize any Funding for purposes other than Promotion of Education which qualify as CSR Activities under the Act.

4.8. The Second Party shall not divert any Funding for the purpose of any business.

4.9. The Second Party shall not work for the benefit of any particular religious community or caste.

5. DUE DILIGENCE

5.1. Prior to the execution of this Agreement or Schedule I hereto, the Second Party shall submit copies of the documents and/or information specified in Schedule III.

5.2. Prior to the execution of this Agreement, the Second Party shall submit any such other documents and/or information as may be requested by First Party (or any of its Group Company executing Schedule I).

5.3. In the event of any subsequent modification, amendment, addition, deletion etc. in the documents and/or information provided by the Second Party prior to the execution of this Agreement, the Second Party shall immediately inform in writing First Party (or any of its Group Company executing Schedule I) about such subsequent modification, amendment, addition, deletion etc. along with a valid supporting document as an evidence to such modification, addition or deletion to the original document/information provided.

5.4. The Second Party shall be in compliance with, but not limited to, any registration, exemption, certificate, permission, sanction, licence, approval, renewal etc. obtained by the Second Party being subject to local regulations.

6. ACCOUNTS

6.1. **Disbursement of Funding:** The Funding for the Project shall be disbursed by the First Party (or any of its Group Company executing Schedule I) in such mode and manner as may be specified in Schedule I by the First Party (or any of its Group Company executing Schedule I).

6.2. **Maintenance of Accounts:** The Second Party being a Renowned Higher Education Institute funded by the Government of India is subject to C&AG Audit. However apart from adhering to Government rules and regulations in respect of maintenance of books and accounts, it shall at all times during the term of this Agreement or earlier termination thereof also maintain such documentary accounts in connection with utilisation of the CSR amount towards the objective envisaged in this Agreement.

6.3. **Annual Audited Statement:** The Second Party shall prepare and submit an annual audited statement consisting of details such as balance sheet, income and expenditure statement, receipts and payments account, notes on accounts, statutory auditor's report and any other information as may be specified by First Party as and when it is finalised or published.

6.4. **Reimbursement of Expenses:** Any claim for reimbursement by the Second Party shall be accompanied with all underlying and supporting documents to the satisfaction of the First Party.

7. REPORTING

7.1. **Annual Reports:** The Second Party shall prepare annual reports in such form and manner as may be required by First Party which will be as per CSR Rules. The report shall contain a description of the activities undertaken, a review of progress and the results achieved in the year being reported.

8. STAFF AND PERSONNEL

8.1. The Second Party shall only engage qualified and skilled staff, personnel, employees, agents and any persons, associations, institutions etc. The Second Party shall be fully responsible for their salaries and payments.

8.2. The Second Party shall be responsible for all acts and omissions of its staff, personnel, employees, agents and any persons, associations, institutions etc. engaged by the Second Party whether or not in the course of implementing the Project.

8.3. This Agreement shall not be construed as creating a relationship of employer and employee between the First Party and any staff, personnel, employees, agents and any persons, associations, institutions etc. engaged by the Second Party whether or not in the course of implementing the Project.

9. CONFLICT OF INTEREST

9.1. The Second Party shall notify immediately of any conflict of interest which might occur which could affect the CSR Activities which are being done by the Second Party under this Agreement.

10. INDEMNITY

Each Party shall promptly indemnify, defend and hold harmless the other Party their respective officers, directors, shareholders, employees, sub-contractors and agents, either severally or jointly, as the case may be, from and against any and all claims, costs (including legal costs and expenses), fees, expenses, liabilities, losses or damages (of whatsoever nature or description) associated with any claim and/or third party claim, relating to or arising out of the failure to perform its obligations under this Agreement.

The First Party undertakes to comply with the provisions of the Companies Act, 2013 relating to CSR funding and activities and shall indemnify the Second Party to the extent of funds disbursed.

11. REMEDIES

- 11.1. Notwithstanding anything else contained in this Agreement if the Second Party fails to comply with the terms and conditions of this Agreement), then First Party (or its Group Companies, as the case may be) shall be entitled to terminate this Agreement and/or to avail all such legal remedies as may be available to First Party (or its Group Companies) under Applicable Law.
- 11.2. First Party (or its Group Companies, as the case may be) shall be entitled to withhold payment to the Second Party's failure in the event of Second Party fails to perform its obligations in full or in part in accordance with the terms and conditions of this Agreement.
- 11.3. Nothing in this Agreement shall be construed to preclude either Party from seeking provisional remedies, including, but not limited to temporary restraining orders and preliminary injunctions, from any court of competent jurisdiction.

12. TERMINATION

- 12.1. Both ...and the Second Party shall be entitled to terminate this Agreement at any time during the Term without cause by giving 30 (thirty) days written notice to the other. However if the Second Party terminates the Agreement, the Second Party would still be bound to complete its obligations for all of the CSR Activities undertaken by it under this Agreement and Second Party will complete all the identified or ongoing project activities and finalise and spend the funds allocated to it under this Agreement by the First Party.
- 12.2. Notwithstanding anything contained hereinabove and without prejudice to the rights and remedies otherwise available under this Agreement or in law, ... shall be entitled to terminate this Agreement with immediate effect on the occurrence of any of the following events of default:
 - 12.2.1. if the Second Party fails to observe or perform any of its obligations under this Agreement, and in the case of a failure capable of being remedied, the Second Party fails to remedy the same to the satisfaction ofwithin7 (seven) days afternotifies the Second Party of such failure.
 - 12.2.2. if the Second Party fails to maintain all accounting records and documents in accordance with this Agreement
 - 12.2.3. If the Second Party breaches terms and conditions relating to confidentiality, confidential information or intellectual property rights.

13. CONFIDENTIALITY

The existence, nature, terms and conditions of this Agreement shall not be disclosed by the Second party in any manner or form, directly or indirectly, to any person or entity under any circumstances without the prior written consent of First Party, except in accordance or in compliance with any Government Acts. Any press releases in respect of the CSR Activities, Funding or this Agreement shall only be made with prior written consent of the First Party.

14. CONFIDENTIAL INFORMATION

- 14.1. The Second Party shall not disclose any Confidential Information related to this agreement to any other third party except:
- 14.1.1. with the consent of First Party and for the purpose of or in connection with the performance of its obligations under this Agreement;
 - 14.1.2. as required by Applicable Laws; or
 - 14.1.3. Where such Confidential Information can be demonstrated to have been in the public domain at the time of the disclosure, without any breach of this Agreement.
- 14.2. **“Confidential Information”** shall mean any technical and business information relating to proprietary ideas, patentable ideas and/or trade secrets, existing and/or contemplated products and services, research and development, production, costs, profit and margin information, finances and financial projections, customers, clients, marketing, and current or future business plans and models, regardless of whether such information is designated as “Confidential Information” at the time of its disclosure.

15. INTELLECTUAL PROPERTY

- 15.1. All Intellectual Property provided by the first party to the Second Party shall remain the exclusive property of First. The Second Party shall only use such intellectual property in the course of and in connection with the carrying out of its obligations under this Agreement for the purposes of this Agreement with the prior written permission of First Party (and/or its Group Companies, as the case may be).
- 15.2. **“Intellectual Property”** means and includes names, trademarks, trade names, trade dress, service marks, insignias, designs, works of authorship, inventions, whether patentable or not, trade secret or confidential information, and any other intellectual and/or industrial property in all goods, services and material including all documents, reports, charts, drawings, databases, products, software, source codes, models, samples, systems, slides, tapes, graphs, notes, specifications, processes, tools and methodologies.
- 15.3. Any intellectual property generated including inventions made in performance of the Project under this MoU, or any patent granted on such invention, shall be owned by the Second Party.
- 15.4. The Second Party shall be free to publish the articles / research arising from the skill development programmes in any Journals / Conferences / other modes of publication. There should however be an acknowledgement of the support received from the first party as applicable.

16. FORCE MAJEURE

- 16.1. **“Force Majeure Event”** means any unforeseeable acts of God or nature, actions of any governmental authority, terrorism, war, sabotage, explosion, epidemic or any other such catastrophe beyond the control of the affected Party which prevents its performance of any material obligation under this Agreement.

- 16.2. If the performance of the Agreement by either Party is delayed, hindered or prevented or is otherwise frustrated by reason of a Force Majeure Event, then the Party so affected shall promptly notify the other Party in writing specifying the nature of the Force Majeure and of the anticipated delay in the performance of the Agreement. From the date of such notification, ... shall in its sole discretion, either terminate the Agreement forthwith or suspend the performance of the Agreement for a period not exceeding 6 (six) months.
- 16.3. If at the expiry of such period of suspension, the reasons for the suspension still remain,and the Second Party shall treat the Agreement as terminated.

17. NOTICES

- 17.1. Unless otherwise agreed in writing (including by way of electronic mail) between the Parties, all notices and/or written communications required to be sent by a Party to the other Party in terms of and under this Agreement shall be in writing, in English language only and shall be deemed to have been duly given:
- 17.1.1. when delivered, if delivered by either a messenger, courier or nationally recognized overnight courier service during the normal business hours of the recipient Party; or
- 17.1.2. on the fifth day following posting if posted by registered mail; or
- 17.1.3. When sent by electronic mail during normal business hours of the recipient Party.
- 17.2. The said notices and/or written communications shall be sent at the addresses provided by the Parties in **Schedule I**.
- 17.3. In case of any change in the address provided by the Second Party in **Schedule I**, the Second Party shall, within a period of 7 (seven) days of change, send a written notice towith a specific reference to this clause informing the nature of such change and such changed address(es) as the case may be.

18. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding of the Parties with respect to the subject matter contained herein and supersedes all prior negotiations, discussions and understanding between the Parties concerning such subject matter, whether written or oral.

19. AMENDMENT

- 19.1. No amendment, modification, alteration or enlargement of this Agreement or its Schedules shall be valid or binding unless it is in writing and signed by the duly authorized representatives of the Parties.

20. SEVERABILITY

If any court of competent jurisdiction or other competent authority holds that any provision of this Agreement is invalid or unenforceable for any reason then the legality, validity and enforceability of the remaining provisions of this Agreement shall not be affected or impaired, and all remaining terms of this Agreement shall remain in full force and effect.

21. WAIVER

The failure of either Party to enforce at any time, or for any period of time, the terms and conditions contained herein shall not be construed to be waiver of any of the terms and conditions or of the right to enforce each and every term and condition of this Agreement.

22. RELATIONSHIP

The relationship between ...and the Second Party is on a principal-to-principal basis. Nothing contained in this Agreement shall be construed as having an effect of constituting a relationship of employer and employee or principal and agent between first party and the Second Party.

23. ASSIGNMENT

- 23.1. The Second Party shall not assign this Agreement or any of its rights or obligations under this Agreement without obtaining the prior written consent of first party.
- 23.2. Where any assignment of any of the Second Party's rights or obligations under this Agreement has been permitted by first party, the Second Party shall remain responsible for the acts and omissions of any assignee under any such assignment.
- 23.3. Any purported assignment by the Second Party that is not in accordance with this clause shall be null and void.
- 23.4. All the provisions of this Agreement shall be binding upon and shall inure to the benefit of and be enforceable by the Parties to this Agreement, their successors and permitted assigns.

24. SURVIVAL

Any provision of this Agreement which creates any rights or imposes any obligation after the expiry or earlier termination of this Agreement shall survive the expiry or earlier termination of this Agreement.

25. GOVERNING LAW AND DISPUTE RESOLUTION

- 25.1. This Agreement shall be governed exclusively by, and shall be construed and enforced in accordance with the laws of India.
- 25.2. In the event of any dispute or controversy arising out of or relating to this Agreement, the Parties agree to exercise their best efforts to amicably resolve the same.
- 25.3. Any dispute or controversy arising out of or relating to this Agreement which is not resolved amicably shall be referred to arbitration by a sole arbitrator, to be mutually appointed by the Parties, in accordance with the provisions of the Arbitration and Conciliation Act, 1996 as amended.
 - 25.3.1. The seat of the arbitrator shall be at Bangalore, India.
 - 25.3.2. The arbitration shall be conducted in English language only.
 - 25.3.3. The decision of the arbitrator shall be final and binding on the Parties.
- 25.4. Subject to the above, the Parties hereby submit to the exclusive jurisdiction of the Courts at Bangalore, India for purposes of obtaining interim relief or enforcing any award passed by the sole arbitrator.

26. JOINT DRAFTING

This Agreement and its Schedules have been drafted jointly by the Parties and no presumption or rules of construction based upon drafting this Agreement shall be made in any related legal proceedings. The Parties agree and acknowledge that each Party has had ample time to seek and receive competent legal or other counsel regarding the terms and conditions of and duties and obligations imposed under this Agreement and that the Parties fully understand, agree and accept all of the terms and conditions herein.

27. ORIGINAL AGREEMENT

This Agreement shall be executed in two original copies and both Parties shall retain one copy each of the same.

IN WITNESS WHEREOF THIS AGREEMENT HAS BEEN EXECUTED BY THE HANDS OF THE DULY AUTHORIZED REPRESENTATIVES OF THE PARTIES ON THE DAY MONTH AND YEAR FIRST ABOVE WRITTEN:

[SIGNATURE PAGE TO FOLLOW]

[INTENTIONALLY LEFT BLANK]

For and on behalf of:

For and on behalf of :

Name:

Name:

Title:

Dean, Resources and Alumni

Witness No. 1:

Witness No. 2:

Name:

Name:

Father's Name:

Father's Name:

Address:

Address:

Schedule – I

(Refer Clause 4)

1.	Effective Date of the Project	
2.	Term of the Project	
3.	Addresses & other Contact Details	<u>Details of First Party for purposes of clause 20 (Notices):</u> Address: Attention: E-mail Id: Contact Person for purposes of Project implementation: <u>Details of Second Party for purposes of clause 20 (Notices):</u> Address: [Indian Institute of Technology Kanpur - 208016] Attention: [Dean, Resources and Alumni]
4.	CSR Activities	
5.	Project Description	
6.	Geographic Area	Kanpur (India)
7.	Project Objectives	
8.	Funding Details	
9.	Disbursement of Funding	

Schedule II

1.	Project Implementation Plan	
2.	Performance Indicators	100% utilization of disbursed fund by Utilization certification from IITK shall indicate the completion of the proposals in Schedule I.

Schedule III

Documents required to be submitted prior to execution of the Agreement:

1. Permanent Account Number ("PAN")
2. FCRA Exemption Certificate
3. IIT Kanpur Bank Details