

## Memorandum of Understanding

between

### The Participating Institute (PI) and the FAP Consortium

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This Memorandum of Understanding (MOU) was signed and executed at Prayagraj on the XX<sup>th</sup> day of the XXX Month, of the year XXXX.

BY AND BETWEEN

**XXXXXX (Name and Address of the PI) XXXXX**, has its registered office at **XXXXXXXXXX** herein after referred as the Participating Institute (PI) or THE FIRST PARTY

AND

**Indian Institute of Information Technology Allahabad (IIITA), Prayagraj on behalf of the Consortium of Flexible Academic Program (FAP), as its current coordinating institute,** has its registered office/campus at Prayagraj (Allahabad), Uttar Pradesh, India - 211015. (Hereinafter referred to as "**FAP Coordinating Institute (FCI)**") which expression shall include its successors and assigns), THE SECOND PARTY.

The parties may be referred to singularly as "Party" or collectively as "Parties".

WHEREAS the **XXXXXXXXXX** is a renowned academic and research institute/university who wishes to join the FAP Consortium as a participating institute (PI) as per the terms mentioned in this MOU.

AND WHEREAS **IIITA** took the initiative for building the Flexible Academic Program (FAP) Consortium and hence currently acting as its coordinating institute for the pilot run of FAP. The consortium will however meet soon and may define norms for choosing its office bearers from the Director/Faculty of various PIs. Then after these office bearers will sign MOUs with new PIs.

AND WHEREAS, the parties are desirous to jointly offer Flexible Academic Programs hereinafter referred to as "FAP" in the online or/and offline mode or at the premises of *THE EITHER PARTY* which will provide FAP to the students.

AND WHEREAS the parties agree that this MOU shall be legally and fully binding on them till the completion of the pilot run of the FAP commenced under this MOU. The FAP Consortium may however decide the duration of the pilot run with simple majority.

## 1. Definitions:

In this agreement, unless the context otherwise requires, the following terms shall have the meaning assigned to them with the normal grammatical variation:

- 1.1 **"FAP"** refers to the Flexible Academic Program
- 1.2 **"Participating Institutes/University"** shall refer to all those institutes who will sign MOU with FAP Consortium for offering some courses under FAP.
- 1.3 **"FAP Coordinator"** a person nominated by the Director/VC of each PI to represent the institute/university at FAP consortium and to handle all FAP related activities at respective Institute/University.
- 1.4 **"Consortium,"** the group of all participating institutes/universities who have signed this MOU to offer the FAP is collectively referred to as a consortium.
- 1.5 **"Degree"** shall refer to the Certificate/Diploma/Degree etc. to be issued under FAP.
- 1.6 **"Course"** shall refer to such course (s) for which a student shall earn Credits after due assessment as per the laid provisions. Each course shall comprise Lectures, Tutorials, and Practical Sessions. A Course may have either or all three Components. The project is also treated as a Course.
- 1.7 **"Registration"** shall refer to a student expressly registering for the courses in any particular semester along with the clearance of all dues and fees, as may be further detailed in this ordinance. Both these activities are integral and mandatory for the completion of registration and being classed as a Registered Candidate.
- 1.8 **"Programs"** means all the programs offered under FAP, and would be amended from time to time. Any additions or alterations to this will be mutually agreed upon at a later date by the parties.
- 1.9 **"Student"** means all candidates who would undergo courses under FAP after paying relevant fees and would include but not be limited to existing/regular students, alumni, faculty of the second party, faculty from other institutes, and other working professionals, etc.

## 2 General Provisions:

- 2.1 The primary objective of FAP is to generate skilled professionals, as per the spirit of the National Education Policy (NEP) 2020. It would help improve
  - 2.1.1 Employability and Career Development of Students.
  - 2.1.2 Increased Revenue of the parties.
  - 2.1.3 Multiple entries and multiple exits options for the students to upgrade their educational qualification at any level.

- 2.2 Both parties recognize and acknowledge the resolutions mentioned in the proceedings of the National Conference on Flexible Academic Program (FAP), held on 3<sup>rd</sup> and 4<sup>th</sup> Dec 2021 at IIITA Prayagraj in mixed mode (**Annexure-A**) for conducting the pilot run of the FAP. During the pilot run, the marksheets issued by FAP Consortium to the students will carry the PI's name (may be logo too) with those courses opted by the student which are offered by the faculty associated with the PI (either physical or online mode). The First party should do the needful for this action. Further, during the pilot run, the certificate/degree to be awarded by the consortium to the outgoing students at various exit points will have the logos of all PIs from where the students would have earned credits. The FAP consortium (the second party) will issue all such Certificates/Degree to the students. Also, it will send these to all respective institutes so that they keep their competent bodies (e.g. Senate or Academic Council BOG/BOM etc. as the case may be) informed about it.
- 2.3 Both parties recognize and acknowledge that during the pilot run, the general decisions taken up by FAP Consortium with simple majority will remain binding on the First Party (over and above para 2 above). But, the institute specific decisions e.g. how many seats in various courses should be offered by a PI in various modes etc. will be decided by the PI, and will remain binding on the Second Party.
- 2.4 All PIs may consider contributing some seed money to the FAP Consortium so that it can easily undertake marketing and promotion of FAP, building backbone software etc. The revenue earnings of the FAP Consortium (in terms of some percentage of each course fee from each registered student) will be in proportionally distributed among those PIs which will give seed money to the FAP consortium. This is to clarify that the First Party may join the FAP consortium (with equal rights) without contributing any seed money. In any case, no party shall be responsible for any direct or indirect, incidental or economic consequential losses and damages (including loss of profits).
- 2.5 The first party shall obtain the needful approval of its competent bodies (e.g. Senate or Academic Council BOG/BOM etc. as the case may be) for above said provisions and submit a copy of the obtained approval to the second party.

### **3 Obligations of the First Party:**

As stated in the Annexure-A and as per Para 2 and 10 of this MOU.

### **4 Obligations of the Second Party:**

As stated in the Annexure-A and as per Para 2 and 10 of this MOU.

**5 Commercial and Payment Terms:**

As stated in the Annexure-A and as per Para 2 and 10 of this MOU.

**6 Validity:**

This MOU shall come into force from the effective date and shall be valid for the duration defined by the FAP Consortium for conducting pilot run of the FAP.

**7 Notice and Termination of the Agreement:**

This MOU may be terminated based on mutual understanding and by providing enough time such that the ongoing semester at that point of time may be completed and at least 30 days beyond it. Both parties acknowledge that the expiry or termination of this MoU shall not act as the termination of the Program for Students and the first party. Both parties shall continue and facilitate completion of the program for all the students who were enrolled during the validity of this MoU, subject to payment of the fees for the programs.

**8 Confidentiality:**

Both parties acknowledge that in connection with the program, they may be provided with or have access to written/oral information/ data and/ or other confidential information which is proprietary and/or confidential to both parties and which is of market proprietary and/ or confidential or which it would be reasonable to assume was proprietary or confidential due to the nature of the information disclosed. Confidential information material ("the Information") shall mean any information disclosed by either party to each other either directly or indirectly, in writing, orally, by inspection of tangible objects (including, without limitation, documents, prototypes, samples, media, documentation, discs, and code). Confidential information shall include, without limitation, any materials, trade secrets, know-how, proprietary information, business, and marketing plans, financial and operational information, and all other non-public information, material, or data relating to the current and/ or future business and operations of both parties and analysis, compilations, studies, summaries, extracts or other documentation prepared by either party. Confidential information may also include information disclosed to either party by third parties. Both parties agree to keep confidential all such information and shall not disclose the same, either in whole or in part, to any third party without each other's prior written consent.

## **9 Force Majeure:**

Suppose due to 'Force Majeure' like riots, political disturbance or any other similar reason, and it becomes advisable or necessary in the agreed opinion of the parties to this agreement to terminate the programs under this agreement. In that case, the agreement may be terminated at any time by mutual consent in writing, and in cases the parties do not agree, the agreement may, under the said circumstances, be terminated by any of the parties by giving 60 days' notice in writing to the other party. Such termination shall be effective in the manner specified in the said notice and shall be without prejudice to the claims which any of the parties may have against the other on the termination of this agreement in the manner aforesaid. Such termination shall also be without detriment to the ongoing programs, and the enrolled students shall be enabled to complete their programs to avoid hardship, and the parties to this agreement shall continue to perform their respective obligations till the completion of ongoing programs.

## **10 Amendment to the Agreement:**

All resolutions adopted by the FAP consortium with simple majority in its meetings shall be treated as amendments to this MOU.

## **11 Intellectual Property Rights:**

11.1 The copyright of all the course material, provided by and developed for FAP, the soft copy of all chat sessions broadcast, transfer and course conduct medium and other technology-based activity that FAP conducts and all also those that the first party provides will vest exclusively with the first party and the second party shall have no right or interest therein whatsoever. However, the individuals who are involved in developing specific components of such course material should jointly own the copyright with the first party.

11.2 The copyright of all the material belonging to the second party and that is not used for the joint programs offered through FAP will vest exclusively with the second party. The first party shall have no right or interest therein whatsoever.

## **12 Governing laws and jurisdiction:**

This MoU shall be governed by the law of the land. Therefore, Allahabad Prayagraj courts will have exclusive jurisdiction for any issue or dispute arising out of or in connection with this MoU.

### **13 Construction of Terms:**

Suppose any provision of this MoU is held unenforceable by a court of competent jurisdiction. In that case, that provision shall be severed and shall not affect the validity or enforceability of the remaining provisions.

### **14 No License:**

Nothing in this agreement is intended to or will grant the second party (i) any right under any patent copyright or the intellectual property right of the first party. (ii) Right in or to confidential information.

### **15 Independent Parties:**

Each party is an independent entity and will be responsible for the direction given by its competent authorities/Bodies, and compensation of its employees. This MoU creates no partnership or agency relationship. Neither party shall make any commitments on behalf of the other party.

### **16 Indemnification:**

Both parties hereby undertake to indemnify in full and agree to keep the other party saved, defended, harmless from, and against loss, charges, expenses, and damages arising from this MoU for any cause or causes. Such causes include but are not limited to negligence, errors and omissions, breach of contract, undertaking, warranty, and representation.

### **17 Miscellaneous Provisions:**

17.1 Governing Law: This Agreement shall be construed and enforced in accordance with the law governing such matters in India.

17.2 Arbitration: in the event of any dispute or difference arising out of or in connection with this agreement as to the interpretation on any other matter, then in such events, the Parties shall resolve such dispute or difference first by mutual discussion and if still unresolved, the dispute shall be referred for arbitration by a Sole Arbitrator and the decision of the Sole Arbitrator Shall be final.

17.3 Entire Agreement: This Agreement, including the attachments herein, mentioned constitute the entire agreement of the parties with respect to the subject

matter hereof and may not be modified or amended except by a written agreement signed by both Parties

17.4 Assignment: This Agreement shall inure to the benefit and be binding upon the Parties here and their successor and assigns provided.

17.5 Non-Solicitation: During the term of the agreement and for a period of one (1) year thereafter, neither party shall (either directly or indirectly through a third party) employ, solicit to employ, cause to be solicited for the purpose of employment or offer employment to any employee/s or subcontractor/s of the other party, or aid any third person to do so, without the specific written consent of the other party.

17.6 Publicity: The first Party shall be permitted to make reference to the second party thru name, logo, image, and staff and FAP in its brochures, websites, and publicity material relating to the programs being offered in the manners mutually agreed to from time to time.

17.7 Any points not specially covered in this MoU and pertaining to the conducting of the programs shall be sought to be resolved by mutual discussions and amicably. Parties hereto, however, agree that such dispute, differences, or any termination of the MoU shall not be permitted to adversely affect the ongoing programs.

In Witness whereof the parties hereto have executed this MoU on the date above written through their duly authorized representatives.

**For FAP Consortium**

**For Participating Institute**

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

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

Name: XXXX

Name: XXXXX

Title: Chairman FAP Consortium

Title: Director/VC of the PI

**Witness**

**Witness**

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

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

Name: XXXXXXXX

Name: XXXXX

Title: Member, FAP Consortium

Title: FAP Coordinator of the PI