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## MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING (this "MOU"), dated as of 16<sup>th</sup> February, 2023, sets forth certain nonbinding understandings and binding agreements between

**UPES**, a University established under the University of Petroleum and Energy Studies Act, 2003, (Act No. 15 of 2003) as amended vide University of Petroleum and Energy Studies (Amendment) Act, 2022 (Act No. 19 of 2022) of state Government of Uttarakhand, India, having its main campus at Village Bidholi, via Prem

Page 1 of 8



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Director  
 Higher Education Uttarakhand  
 Haldwani (Nainital)



Nagar, Dehradun, Uttarakhand, 248007, India, through its Registrar Mr Manish Madaan (hereinafter called as "UPES", which expression shall, unless repugnant to the context or meaning thereof, be deemed to mean and include its successors and assigns), of the **ONE PART**;

AND

Directorate of Higher Education, Government Of Uttarakhand (DoHE, UK) with its office at Nawalkheda, Golapar, Haldwani (Nainital), District Udham Singh Nagar, Uttarakhand 263139; of the **SECOND PART**;

WHEREAS this MOU relates to Skill/vocational courses to students (the "Project").

WHEREAS UPES and the DoHE, UK are sometimes referred to individually as a "Party" and collectively as the "Parties".

1. MOU Subject to Definitive Agreement. This MOU is for discussion purposes only, and is not intended to constitute a legally binding or enforceable agreement or commitment on either Party, except for Section 3, which shall be binding on the parties in accordance with its terms.
2. Nonbinding Understandings. This Section 2 sets forth the nonbinding understandings of the Parties with respect to the Project. It is the present intention of the Parties that UPES and DoHE, UK would fulfill each of their respective responsibilities with respect to the Project on terms and conditions substantially similar to those set forth in this Section 2. These terms are based upon information currently available. They do not reflect all of the material terms of the Project but provide a basis for discussion and negotiating the Definitive Agreement (as defined below).
  - (a) Definitive Agreement. The Parties intend to negotiate a formal written agreement that would govern each party's obligations with respect to the Project ("**Definitive Agreement**"). Binding obligations with respect to the Project shall only arise upon the execution of the Definitive Agreement by both Parties.
  - (b) Customary Provisions. The Definitive Agreement would contain such covenants, conditions, indemnities, representations and warranties as are customary for this type of collaboration and as the Parties would mutually agree.
  - (c) UPES Responsibilities.
    - I. UPES shall provide access to content and associated training of students, job seekers and trainers/educators etc. via online workshops, webinars etc.
    - II. Nominate a Single Point of Contact (SPOC) to coordinate for all project-related matters
    - III. UPES shall be responsible for the approval of Branding material like Banner, Standee, Flyers, and Certificates etc.
    - IV. Certification may be awarded to candidates upon successful completion of courses



  
Director  
Higher Education Uttarakhand  
Haldwani (Nainital)



- V. Work collaboratively with DoHE,UK to spread awareness about programs and skilling of candidates on mutually identified futuristic skills courses which would be carried out through DoHE,UK in state of Uttarakhand.
- VI. Identification, Orientation, Registration and Engagement of Candidates in courses through DoHE,UK support. Plan and publish a calendar of engagement activities in collaboration with all stakeholders.
- VII. Share periodic updates with stakeholders to track progress and monitor learners

(d) DoHE, UK Responsibilities.

- I. Act as anchor partner to utilize its network of partner institutions (higher education, technical education etc.), skill development centers, in the State of Uttarakhand.
- II. Assist to mobilize all learners from the identified institutions, in a phased, categorized manner, who will attend the training. Drive active participation of learners towards program activities, as mutually aligned
- III. Existing Institutions under DoHE,UK shall be leveraged to create awareness and register candidates under various programmes mutually identified by parties.
- IV. Nominate dedicated SPOC(s) for coordination of all activities planned for the learners and ensure smooth implementation

(e) Term.

This MoU will be valid for 12 months from its Execution Date, unless extended or terminated earlier. Both the parties can terminate the MoU giving prior 30 days written notice to the second party with the reason if any.

(f) Other Terms

3. Binding Agreements. A legally binding and enforceable Definitive Agreement may be negotiated & executed between the Parties that would govern each party's obligations with respect to the Project. In consideration of the expenses that the Parties may incur in pursuing the Project and drafting and negotiating the Definitive Agreement, the Parties agree as follows:
- (a) Costs and Expenses. Each Party shall be responsible for all of its costs and expenses associated with pursuing the Project, including without limitation (i) the performance of its obligations under this MOU; (ii) drafting and negotiating the Definitive Agreement; and (iii) providing its own volunteer force.
  - (b) IP and Logos. Each Party may use the logo of the other Party only after obtaining the prior approval of the other party. UPES and DoHE, UK shall retain ownership to its pre-existing intellectual property existing outside or prior to this MOU. In addition, each party agrees not to initiate or distribute any press releases, publicity matters or other promotional materials related to or referencing the subject matter of this MOU without prior written approval of the other party.



  
 Director  
 Higher Education, Uttarakhand  
 Haldwani (Nainital)



- (c) Confidentiality. None of the information or materials exchanged between UPES by DoHE, UK is confidential. Should the parties wish to exchange confidential information in connection with this Agreement, the parties shall enter into separate written agreement with respect to such disclosure, using the form in Exhibit A, Agreement for Exchange of Confidential Information.
- (d) Affirmation of Non-Discrimination. DoHE, UK does not advocate, support, or practice activities inconsistent with UPES nondiscrimination policies, whether based on race, color, religion, age, nationality, social or ethnic origin, sexual orientation, gender, gender identity or expression, marital status, pregnancy, political affiliation, disability or veteran status. Documentation demonstrating that DoHE, UK complies with the above statement may be required by the UPES Corporate Social Responsibility manager.
- (e) Project for Legal Purposes. DoHE, UK will not use any portion of the Project or its technology to support or promote violence, terrorist activity or related training of any kind, either directly or indirectly (including through support of other organizations or persons engaged in such activity).
- (f) Compliance with Anti-Corruption and Anti-Bribery Laws. DoHE, UK commits to using the services, products, cash or other benefits of the Project solely for the benefit of the Project, in a manner that reflects the highest standards of integrity and ethical conduct and in accordance with all laws, rules and regulations applicable to DoHE, UK, including without limitation all applicable anti-corruption and anti-bribery laws. DoHE, UK agrees that no individual associated with or employed by DoHE, UK will improperly benefit, whether directly or indirectly, from the Project. DoHE, UK agrees that this Project is not intended to influence, and will not influence, the procurement decisions of DoHE, UK or any organization with which its partners, officers, board members or trustees or their family members are employed or otherwise affiliated. DoHE, UK will not directly or indirectly make or give, offer or promise to make or give, or authorize the making or giving of any payment, gift, or other thing of value or advantage to any person or entity for (a) the purpose of wrongfully influencing any act or decision, inducing any act or omission to act in violation of a lawful duty, inducing a misuse of influence or securing any improper advantage, or (b) any purpose that is otherwise unlawful under any applicable anti-corruption or anti-bribery laws, where in either case (a) or (b) there is any direct or indirect connection or relation to the grant.
- (g) Termination. The rights and obligations of the Parties contained in this MOU shall expire upon the execution of the Definitive Agreement or the termination of this MOU, whichever is earlier. Either Party may terminate this MOU upon notice to the other party, without any obligation or liability to the other party, provided however that Sections 3(b), 3(c), 3(d), 3(e), 3(f), 1(a) and 3(h) shall survive such termination.
- (h) The parties agree that (i) the activities intended by this MOU may not be successfully completed; (ii) the results achieved may not be as anticipated; and (iii) these



Director  
Higher Education Uttarakhand  
Haldwani (Nainital)



activities may not lead to any announced or generally available or limited offering. Any decision by any party to forego, or engage any other business opportunity, to alter or supplement any business plan of direction, or to make any investment in anticipation of the consummation of any transaction contemplated hereunder, is at the sole discretion of the party electing to do so, and will not create any actual or potential liability or any obligation for the other party, even if that party is aware of, or has been informed of, or has indicated approval of, any such action, decision, or election.


- (i) For any claim in any way related to the subject matter of this MOU, the damaged party shall not be entitled to recover any actual and direct damages unless and until a definitive agreement has been signed. This will apply regardless of the form of action, whether in contract or in tort, including negligence. This limitation will not apply to claims for bodily injury or damage to real property or tangible personal property for which a party is legally liable. However, the liability for direct damages will be limited to INR 10,000. Notwithstanding anything to the contrary, in no event will either party be liable for any lost profits, lost savings, incidental damages, or other economic consequential damages, even if advised of the possibility of such damages. In addition, neither party will be liable for any damages claimed by the other party based on any third party claim.
- (j) Governing Law. This MOU shall be governed by and construed in accordance with laws of India and the courts of Dehradun shall have exclusive jurisdiction.
- (k) No Third-Party Beneficiaries. Nothing herein is intended or shall be construed to confer upon any person or entity other than the Parties and their successors or assigns, any rights or remedies under or by reason of this MOU.
- (l) No Assignment. Neither this MOU, nor any rights or obligations hereunder may be assigned, delegated or conveyed by either Party without the prior written consent of the other Party.
- (m) Counterparts. This MOU may be executed in counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one agreement.

IN WITNESS WHEREOF, the Parties hereto have executed this MOU as of the date set forth above.

For UPES  
  
Name: Mr. Manish Madan

Title: Registrar

For DoHE, UK

  
Name: Prof. (Dr.) Jagdish Prasad Haldwani  
Title: Director  
Haldwani (Nainital)



## Attachments

### Exhibit A – Agreement for Exchange of Confidential Information

#### Agreement for Exchange of Confidential Information

Our mutual objective under this Agreement is to provide protection for confidential information (Information) while maintaining our ability to conduct our respective business activities. Each of us agrees that the following terms apply when one of us (Discloser) discloses Information to the other (Recipient).

#### 1. Disclosure

Information will be disclosed either:

- 1) in writing;
- 2) by delivery of items;
- 3) by initiation of access to Information, such as may be in a data base; or
- 4) by oral or visual presentation.

Information should be marked with a restrictive legend of the Discloser. If Information is not marked with such legend or is disclosed orally, the Information will be identified as confidential at the time of disclosure.

#### 2. Obligations

The Recipient agrees to:

- 1) use the same care and discretion to avoid disclosure, publication or dissemination of the Discloser's Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate; and
- 2) use the Discloser's Information for the purpose for which it was disclosed or otherwise for the benefit of the Discloser.

The Recipient may disclose Information to:

- 1) its employees who have a need to know, and employees of any legal entity that it controls, controls it, or with which it is under common control, who have a need to know. Control means to own or control, directly or indirectly, over 50% of voting shares; and
- 2) any other party with the Discloser's prior written consent.

Before disclosure to any of the above parties, the Recipient will have a written agreement with the party sufficient to require that party to treat Information in accordance with this Agreement.

The Recipient may disclose Information to the extent required by law. However, the Recipient will give the Discloser prompt notice to allow the Discloser a reasonable opportunity to obtain a protective order.



*[Handwritten signature]*

*[Handwritten signature]*  
Director  
Higher Education Uttarakhand  
Haldwani (Nainital)



### 3. Confidentiality Period

Information disclosed under this Agreement will be subject to this Agreement for two years following the initial date of disclosure.

### 4. Exceptions to Obligations

The Recipient may disclose, publish, disseminate, and use Information that is:

- 1) already in its possession without obligation of confidentiality;
- 2) developed independently;
- 3) obtained from a source other than the Discloser without obligation of confidentiality;
- 4) publicly available when received, or subsequently becomes publicly available through no fault of the Recipient; or
- 5) disclosed by the Discloser to another without obligation of confidentiality.

The Recipient may use in its business activities the ideas, concepts and know-how contained in the Discloser's Information which are retained in the memories of Recipient's employees who have had access to the Information under this Agreement.

### 5. Disclaimers

**THE DISCLOSER PROVIDES INFORMATION WITHOUT WARRANTIES OF ANY KIND.**

The Discloser will not be liable for any damages arising out of the use of Information disclosed under this Agreement.

Neither this Agreement nor any disclosure of Information made under it grants the Recipient any right or license under any trademark, copyright or patent now or subsequently owned or controlled by the Discloser.

### 6. General

This Agreement does not require either of us to disclose or to receive Information.

Neither of us may assign, or otherwise transfer, its rights or delegate its duties or obligations under this Agreement without prior written consent. Any attempt to do so is void.

The receipt of Information under this Agreement will not in any way limit the Recipient from:

- 1) providing to others products or services which may be competitive with products or services of the Discloser;
- 2) providing products or services to others who compete with the Discloser; or
- 3) assigning its employees in any way it may choose.

The Recipient will 1) comply with all applicable export and import laws and regulations, including associated embargo and sanction regulations, and 2) unless authorized by applicable governmental license or regulation, not directly or indirectly export or re-export any technical information or software subject to this Agreement (including direct products of such technical information or software) to any prohibited destination or country (including release to nationals, wherever they may be located, of any prohibited country) as specified in such applicable export regulations. This paragraph will survive the

Page 7 of 8



  
Director  
Higher Education Uttarakhand  
Haldwani (Nainital)



termination or expiration of this Agreement and the confidentiality period above and will remain in effect until fulfilled.

Only a written agreement signed by both of us can modify this Agreement.

Either of us may terminate this Agreement by providing one month's written notice to the other. Any terms of this Agreement which by their nature extend beyond its termination remain in effect until fulfilled, and apply to respective successors and assignees.

Both of us consent to the application of the laws of India to govern, interpret, and enforce all of our rights, duties, and obligations arising from, or relating in any manner to, the subject matter of this Agreement, without regard to conflict of law principles.

This Agreement is the complete and exclusive agreement regarding our disclosures of Information, and replaces any prior oral or written communications between us regarding these disclosures. By signing below for our respective enterprises, each of us agrees to the terms of this Agreement. Once signed, any reproduction of this Agreement made by reliable means (for example, photocopy or facsimile) is considered an original.

Agreed to:

**DoHE, UK**

DoHE, UK

Authorized Signature

**Name: Prof. (Dr) Jagdish Prasad**

Date: 16/02/2023

Identification Number:

Address: Directorate of Higher Education  
Nawadkheda, Golapar, Haldwani -263139  
Uttarakhand

Agreed to:

**UPES**

UPES

Authorized Signature

**Name : Mr. Manish Madan**

Date: 16/02/2023

Agreement Number:

Address: Energy Acre, Bidholi, Via Premnagar,  
Dehradun, 248007, Uttarakhand



A handwritten signature in black ink, appearing to read 'Manish Madan', written over the Registrar's stamp.