

Notary Stamps



Indian-Non Judicial Stamp Haryana Government



Date : 05/09/2020

Certificate No. G0E2020I1787



Stamp Duty Paid : ₹ 500
(Rs. Only)

GRN No. 67221009



Penalty : ₹ 0

(Rs. Zero Only)

Seller / First Party Detail

Name: Max Healthcare Instituteltd

H.No/Floor : 7th

Sector/Ward : 42

LandMark : Golf course road

City/Village : Gurugram

District : Gurugram

State : Haryana

Phone: 98*****28



Buyer / Second Party Detail

Name : Abhay Soi

H.No/Floor : 7th

Sector/Ward : 42

LandMark : Golf course road

City/Village: Gurugram

District : Gurugram

State : Haryana

Phone : 98*****28

Others : Kayak investments holding pte ltd

Purpose : Non Judicial Stamp Paper for General Agreement

Date: September 6, 2020

To,

Kayak Investments Holding Pte. Ltd.

10 Changi Business Park Central 2,
05-01 Hansapoint@Cbp,
486030 Singapore

Attn: Ms. Yi Jun Ooi and Ms. Liqin Yang

Max Healthcare Institute Limited
167, Floor 1, Plot-167A,
Ready Money Mansion,
Dr. Annie Besant Road, Worli,
Mumbai, Maharashtra
400018 India

Attn: Mr. Atulya Sharma

Re: Shareholders' Agreement dated December 24, 2018 executed by and amongst: (i) Abhay Soi ("Promoter"); and (ii) Kayak Investments Holding Pte. Ltd. ("Investor") and the Deed of Accession and Adherence dated June 1, 2020 executed by Max Healthcare Institute Limited ("Company").

- 1) We refer to the above captioned agreement dated December 24, 2018 executed by and amongst the Promoter and the Investor ("**Shareholders' Agreement**") and the Deed of Accession and Adherence dated June 1, 2020 executed by the Company ("**Deed of Adherence**"). All capitalised terms used but not defined in this letter agreement shall have the same meaning as ascribed to them in the Shareholders' Agreement.
- 2) We refer to Clause 9A.1 of the Shareholders' Agreement, which sets out the parameters and process for determining the entitlement of the Promoter to receive the Cost Saving Incentive. The Promoter and the Investor now wish to amend the criteria and conditions subject to the fulfilment of which, the Promoter shall receive the Cost Saving Incentive under the Shareholders' Agreement. Accordingly, the Parties wish to amend the Shareholders' Agreement as follows, provided that such amendments shall be effective only upon the Board of Directors and the public shareholders of the Company (by way of an ordinary resolution) approving the amendments proposed to be made to the Shareholders' Agreement ("**Requisite Approvals**"):
 - a) The following new definitions shall be added to the Shareholders' Agreement:

"Accounting Firm" means any of the Indian Affiliates or associates of:

- (a) *Deloitte Touche Tohmatsu;*
- (b) *KPMG;*
- (c) *Price Waterhouse Coopers;*

(d) EY (formerly, Ernst & Young);

(e) Grant Thornton; or

(f) BDO Global;

“Call Option Transfer Date” means the earlier of (i) September 6, 2021 or (ii) such other date post April 1, 2021 if transfer of the Realised Benefits Incentive as mentioned in Clause 9A.1(e) of the Shareholders Agreement on such other date, does not violate applicable foreign exchange and securities Laws of India;

“EBITDA” means earnings before interest, tax, depreciation and amortization of the MHIL Entities, on an aggregate basis;

“Initiatives” means specific actions and programs with respect to the MHIL Entities that are launched / initiated in their entirety between April 1, 2019 and March 31, 2020, for increasing the Gross Margin and/or to reduce the Costs and Expenses of the MHIL Entities for such period;

“Gross Margin” means the difference between the consolidated revenues earned by the MHIL Entities less the direct Costs and Expenses of the MHIL Entities attributable to such revenues;

“MHIL Entities” means the MHC Network;

“Personnel Costs” means salaries and wages of full-time employees who are on the payroll of MHIL Entities and Radiant Hospitals;

“Realised Benefits” means the amount by which the EBITDA of the MHIL Entities increase during the period between April 01, 2019 and March 31, 2020, solely on account of any of the Initiative(s);

b) The definition of “**Costs and Expenses**” shall be deleted and replaced as follows:

“Costs and Expenses” means all the costs and expenses in relation to the MHIL Entities, other than depreciation, amortization and interest expenses;

c) The definition of “**FY 21 Consolidated Management Accounts**” shall be deleted and replaced as follows:

“FY 21 Consolidated Management Accounts” means the combined Financial Statements of the MHIL Entities for the Financial Year ending on March 31, 2021 and combined Financial Statements for this purpose would mean the aggregation of (i) Financial Statements of Radiant Hospitals and (ii) consolidated Financial Statements of MHIL Entities, after eliminating any impact of any inter-se transactions between Radiant Hospitals and MHIL Entities.

d) The definitions of “Cost Saving Threshold”, “Consolidated Historical Accounts”, “FY 19 Consolidated Management Accounts”, and “FY 21 Period” shall be deleted from the Shareholders’ Agreement.

e) Clause 9A.1 of the Shareholders’ Agreement shall be deleted and replaced as follows:

“9A.1. Realised Benefits Incentive:

- (a) *The Promoter has been and shall be responsible for introducing and implementing the Initiatives with respect to the MHIL Entities, such that the EBITDA of the MHIL Entities increases on account of such Initiatives.*
- (b) *The Parties agree that the Promoter’s right to receive the Realised Benefits Incentive (as defined below) shall be subject to:*
 - (i) *the Realised Benefits aggregating to an amount equal to at least INR 140,00,00,000/- (Indian Rupees One Hundred and Forty Crores), the computation of which shall be confirmed by an Accounting Firm engaged by the Promoter in this regard. The Investor will have the right to review the computation of the Realised Benefits provided by the Promoter, and notify the Promoter whether the Investor agrees with such computation or not; and*
 - (ii) *Personnel Costs determined from FY 21 Consolidated Management Accounts not exceeding INR 1,060 crores (Indian Rupees One Thousand and Sixty Crores).*

(together the “Promoter Incentive Conditions”).

- (c) *The Promoter has provided to the Investor the details of the Initiatives implemented by the Promoter and the computation of the Realised Benefits arising therefrom, as confirmed by an Accounting Firm (“**Realised Benefits Computation**”). The Investor has reviewed the Realised Benefits Computation provided to it by the Promoter and has accepted such computation. Accordingly, the Investor and the Promoter agree that the Promoter Incentive Condition set out in Clause 9.A.1(b)(i) has been fulfilled and the Company acknowledges the fulfillment of the same.*
- (d) *On or after April 01, 2021, the Company shall notify the Performance Committee (supported by the conclusion of an Accounting Firm to be appointed by the Company in this regard), the quantum of Personnel Costs determined from the FY 21 Consolidated Management Accounts (the “**Residual Condition Computation**”). Within 30 (thirty) Business Days of the Performance Committee receiving the Residual Condition Computation from the Company, the Performance Committee shall notify the Promoter and the Investor in writing, the quantum of Personnel Costs determined as per the FY 21 Consolidated Management Accounts and whether the Promoter Incentive Condition set out in Clause 9.A.1(b)(ii) has been fulfilled. The conclusion of the Performance Committee in this regard, shall be final and binding on the Parties.*
- (e) *Within 15 (fifteen) Business Days of the Performance Committee confirming that the Promoter Incentive Condition set out in Clause 9.A.1(b)(ii) has been fulfilled, the Promoter shall have a right to require (by issuing a notice in this regard in writing) the Investor to transfer, on or after the Call Option Transfer Date, to the Promoter (or to an entity designated by him that is 100% owned and controlled by the Promoter) by way of an off-market transaction, such number of Shares as*

are equal to 1.50% (one point five zero per cent) of the number of issued and outstanding Shares of the Company (on a Fully Diluted Basis) at the time of the proposed transfer of the Shares by the Investor to the Promoter (“**Realised Benefits Incentive**”) at such price as may be intimated by the Promoter, provided that such price shall be in compliance with the pricing guidelines prescribed under applicable foreign exchange and securities Laws of India. Provided that, the Investor may transfer the Realised Benefits Incentive to the Promoter (or to an entity designated by him that is 100% owned and controlled by the Promoter), on any date between (i) the date of intimation by the Promoter of his intent to acquire the Realised Benefits Incentive in the manner set out above; and (ii) September 6, 2021, if the Investor and the Promoter mutually agree to do so in writing.

- (f) It is clarified that in case the Share Capital (or the number of Shares) of the Company is expanded/ contracted between the Effective Date and the date of transfer of the Realised Benefits Incentive, the number of Shares to be transferred to the Promoter (as the Realised Benefits Incentive) shall be decreased/ increased (as applicable) pro-rata to take into account the change in the Share Capital (or the number of Shares) of the Company. Additionally, the principles on the basis which the number of Shares to be transferred as Realised Benefits Incentive shall be increased / decreased have been set out illustratively in Part A of Schedule 9.

Illustratively, Realised Benefits Incentive shall be computed as follows:

$$X \text{ (Realised Benefits Incentive in number of Shares)} = B * ((1 - (C/B)) * D)$$

A = Number of issued and outstanding Shares of the Company (on a Fully Diluted Basis) as on the Effective Date: i) as increased by the number of Shares of the Company issued pursuant to any bonus issue / stock split and as reduced by the number of Shares extinguished/ consolidated pursuant to any capital reduction / buy back / consolidation purely in the nature of balance sheet restructuring i.e. not involving any cash payments; and ii) as increased by the number of Shares of the Company subscribed to by the Investor/ its Affiliates on any subsequent primary issuance of Securities by the Company.

B = Number of issued and outstanding Shares of the Company (on a Fully Diluted Basis) as on the date of transfer of the Realised Benefits Incentive

$$C = B - A$$

$$D = 1.50\%$$

- 3) All references to the term ‘Cost Saving Incentive’ in the Shareholders’ Agreement shall be replaced by the term ‘Realised Benefits Incentive’.
- 4) The Investor and the Promoter agree that they will maintain sufficient headroom with respect to the number of Shares that they together with their persons acting in concert can acquire / subscribe to in the Financial Year ending on March 31, 2022 or such other Financial Year as may be mutually agreed to between the Promoter and the Investor, such that the proposed transfer of the Realised Benefits Incentive to the Promoter does not meet the thresholds prescribed under the SEBI (Substantial

Acquisitions of Shares and Takeovers) Regulations, 2011 (as amended from time to time), for the Investor and Promoter together with their persons acting in concert to make a public announcement of an 'open offer' under such regulations.

- 5) The Parties confirm and acknowledge that this letter agreement shall not become effective until such time that the Requisite Approvals have been obtained. Upon the Requisite Approvals being obtained, the letter agreement shall amend, and form part of the Shareholders' Agreement, with effect from the date on which the Requisite Approvals are obtained, and all references to "this Agreement" in the Shareholders' Agreement shall then be to the Shareholders' Agreement, as amended by this letter agreement. If the Requisite Approvals are not obtained, then this letter agreement shall stand automatically terminated. Until the proposed amendments to the Shareholders' Agreement becomes effective in accordance with this paragraph 5, the Parties shall continue to comply with the terms of the Shareholders' Agreement.
- 6) The Parties confirm and acknowledge that the Shareholders' Agreement shall, with effect from the date set out in paragraph 5 above, stand amended and varied only to the extent as set out in this letter agreement. All other terms and conditions as envisaged in the Shareholders' Agreement shall remain unchanged and shall continue to be valid and binding on the Parties. In the event of a conflict between the terms of this letter agreement and the provisions of the Shareholders' Agreement, the provisions of this letter agreement shall prevail only for the limited matters set out herein.
- 7) The provisions of Clause 13 (*Confidentiality*), Clause 17 (*Governing Law*) Clause 18 (*Dispute Resolution*) and Clause 19 (*Miscellaneous*) of the Shareholders' Agreement shall apply *mutatis mutandis* to this letter agreement and shall be deemed to be incorporated herein by reference as if the same were reproduced herein with references therein to the Shareholders' Agreement being references to this letter agreement.

(signature pages attached separately)

Signed by ⁴



Abhay Soi

[SIGNATURE PAGE TO THE LETTER AMENDMENT AGREEMENT]

Signed and delivered for and behalf of
Kayak Investments Holding Pte. Ltd.



Authorised Signatory

Signed and delivered for and behalf of
Max Healthcare Institute Limited

Ajmer

6/9
Authorised Signatory

