

Government of West Bengal
Department of Health & Family Welfare
PPP Cell
Swasthya Bhavan, GN-29, Sector-V
Salt Lake City, Kolkata – 700 091

No. HFW-14015(99)/41/2018-SPSRC SEC-Dept. of H&FW /PPP/ 1303

Date 27/07/2020

**Sub- Approval for renewal of agreement of Fair Price Medicine Shop – at Jaynagar RH ,
Kultali, South 24 Parganas.**

To,
The BMOH– Jaynagar RH, Kultali, South 24 Parganas (W.B)

This is in relation to the renewal of Fair Price Medicine Shops at different Government Hospitals in West Bengal running in PPP model as per departmental notifications issued from time to time, where the initial agreement was signed between Hospital authorities and concerned private partners selected through tender process.

Approval is hereby granted for first renewal of agreement for a period of 4 years of the following FPMS, effective from the date as per the table below:

Sl No.	Name of the Hospital	Name of the Organization	Date of 1 st Agreement as per Check list	Renewal effective from following Date for the period of 4 years
1	Joynagar RH, Kultali, South 24 Parganas.WB	M/s AURIO PHARMA LABORATORIES PRIVATE LIMITED	16-02-2016	16-02-2020

Fresh **Renewal Agreement** in standard format as provided in annexure –I may be signed between respective Hospital authorities and the concerned private organization effective from the date for a period of 4 years as mentioned in the table above. All terms and condition of the agreement will apply for the entire period as mentioned above. All dues including rent and electricity has to be cleared till date by the PPP partner before signing of the renewal agreement.

The agreement will be prepared in non judicial stamp paper of Rs. 100/- by the private partners for running the Fair Price Medicine Shops. It is also to be noted that the performance security has to be renewed in form of Bank Guarantee to be furnished by the private partners while executing the agreement. The performance security is to be executed with the concerned bank in non judicial stamp paper of Rs. 100/- . The duly completed bank guarantee needs to be provided as scheduled 3 of the agreement.

The possession Certificate has to be renewed as provided in schedule 2 of the agreement format attached in Annexure –I.


Secretary PPP, DoH&FW
Government of West Bengal

No. HFW-14015(99)/41/2018-SPSRC SEC-Dept. of H&FW /PPP/1303

Date: 27/07/2020

Copy forwarded for necessary information

1. Director of Health Service, Govt. of West Bengal.
2. Director of Medical Education, Govt. of West Bengal.
3. Director, Drug Control, H& FW Govt. of West Bengal
4. CMOH –South 24 Parganas
5. Dy. CMOH-I & District Nodal Officer PPP – South 24 Parganas
6. Co ordinator IT with a request for web posting.



Secretary PPP, DoH&FW
Government of West Bengal

No. HFW-14015(99)/41/2018-SPSRC SEC-Dept. of H&FW /PPP/1303

Date 27 /07/2020

Copy forwarded for information & necessary Action:

1. M/s AURIO PHARMA LABORATORIES PRIVATE LIMITED

(Partner has to sign the agreement with proper Bank Guarantee within maximum period of 1 month after receipt of this order)



Secretary PPP, DoH&FW
Government of West Bengal

This Renewal Agreement is made on this _____ day of _____ 2020 with effect from _____ for a period of four (4) years

BY

The _____ [**Name of Hospital**] Government of West Bengal situated at _____ [**Place of Hospital**] represented by its MSVP/ Superintendent/ BMOH hereinafter referred as “ The Hospital Authority” (which expression shall, unless excluded by or repugnant to or inconsistent with the context, mean and include the successors-in-office and permitted assigns) [**First Part**]

And

_____ [**Name of Private Organisation**], an Organization incorporated under the Companies Act, 1956 as amended hereafter / The Societies Registration Act, 1860 / The West Bengal Societies Registration Act, 1961/The Indian Trusts Act,1882 as amended hereafter and engaged in running of Diagnostic Centre/Hospital/ Nursing home, having its office at _____ [**Office address of private partner**] represented by its __ __, namely __ __ hereinafter referred to as “**The Concessionaire**” [**Second Part**]

And

-----**Rogi Kalyan Samity**, an Organization incorporated under The West Bengal Societies Registration ACT, 1961, as amended hereafter, having its office at _____ represented by its Member-Secretary, namely _____ hereinafter referred to as “**RKS**” [**Third Part**]

WHEREAS

1. Department of Health & Family Welfare, Government of West Bengal has identified several important needs and taken initiatives to strengthen the medical care services for greater benefit of the people in the State. Access to advance and state of the art diagnostic facility and Dialysis Services at affordable cost is one such important initiative that the DoHFW has planned to undertake for the benefit of the population at large. The purpose of these schemes through PPP is to use strengths and resources of both the partners to provide high-end diagnostic services at affordable cost.
2. In order to introduce proper and timely treatment protocol for the benefit of both the Doctors and Patients, the DoHFW has now felt the need to utilize the grants that it receives from various quarters for augmenting the investigation facilities at the level of Secondary and Tertiary care health facilities. Accordingly, it has been decided by the DoHFW to install the State of the art Diagnostic Facilities as stated under considering the need and scope of utilization of each of the services in the secondary and tertiary level of hospitals:
 - i. CT Scan facilities
 - ii. MRI Scan units
 - iii. Digital X-Ray facilities
and in addition
 - iv. Dialysis Facilities

3. It was also decided by the DoHFW that the services of each of these facilities mentioned under “2” above for the selected hospitals would be under the operation and management of competent organizations selected through defined eligibility criteria and process of bidding as incorporated in the scheme.
4. Private Public Partnership (PPP) is one of such initiatives to use strengths and resources of both the partners to provide high-end diagnostic services at affordable cost;
5. The Hospital Authority on behalf of Department of Health & Family Welfare, Government of West Bengal, agrees to use its resources specified in Schedule A of this Agreement in partnership with the Private Partner;
6. The Private Partner is dealing in providing diagnostic facility (Dialysis Services) and has the expertise and capital;
7. the Private Partner agrees to use its resources specified in this Agreement in partnership with The Hospital Authority on behalf of Department of Health & Family Welfare, Government of West Bengal;
8. The RKS is engaged in welfare of patients attending..... Hospital for treatment and for the developmental activities in..... Hospital;
9. The RKS agrees to act as facilitator on behalf of The Hospital Authority in receiving the concession money from The Private Partner and meeting the service charges payable to The Private Partner against free services provided by The Hospital Authority to its patients.
10. The DoHFW, GoWB thereafter invited Expression of Interest from eligible organizations as O&M partner for round the clock services of **Dialysis Services** at _____ [**Name of Hospital**] and in response thereto received proposals from several such organizations including the Concessionaire
11. After evaluating the proposals based on selection criteria incorporated in the scheme, the DoHFW accepted the proposal for **Dialysis Services** submitted by the Concessionaire whose **BID for Concession Fee** was found most competitive i.e. **Rs** _____ (Rupees _____ only) or 20% of the gross total income generated from the facility in that respective quarter whichever is higher **for each quarter** for **Dialysis Services** at _____ [**Name of Hospital with address**] and the Concessionaire was accordingly given offer vide Memo No. _____ dated _____ to operate the **Dialysis Services** at the said hospital. The Concessionaire has duly accepted the offer vide their acceptance dated _____ [**Date of Acceptance of private partner**] .
12. Renewal of agreement for another terms of 4 years effective from 00/00/000 is hereby granted vide Memo Nodated _00/00/0000. (* please mention the details of Renewal G.O. based on which private partner was selected).

NOW THIS AGREEMENT WITNESSETH as follows: -

ARTICLE 1
DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement, the following words and expressions shall, unless repugnant to the context or meaning thereof, have the meaning hereinafter respectively ascribed to them:

“Agreement” means this agreement including schedules hereto, as of the date hereof and includes any amendment hereto made in accordance with the provisions hereof.

“Applicable Laws” means all laws in force and effect as of the date hereof and which may be promulgated or brought into force and effect hereinafter in India, including the Act, judgements, decrees, injunctions, writs or orders of any court of record, as may be in force and effect during the subsistence of this Agreement.

“Applicable Permits” means all clearances, permits, authorisations, consents and approvals under or pursuant to any of the Applicable Laws, required to be obtained and maintained by the Concessionaire, in order to implement the Project and to transact in the facilities and services in accordance with this Agreement.

“Arbitration Act” means the Arbitration and Conciliation Act, 1996 and shall include any amendment to or any re-enactment thereof as in force from time to time.

“BPL” means Below Poverty Line

“Clearance” means any consent, license, approval, registration, certification, exemption, permit, sanction or other authorization of any nature which is required to be granted by any Government Authority for the scheme and for all such other matters as may be necessary in connection with the scheme.

“ Clinical Establishment Acts” means The West Bengal Clinical Establishment Acts 1950 or modified hereafter.

“Clinical Establishment Rules” means The West Bengal Clinical Establishment Rules 2003 or modified hereafter.

“CAMC” means comprehensive annual maintenance contract relating to equipments and accessories

“Competent Authority” means the Government Agency responsible for regulating the operations of the specific services in the hospital.

“Concessions” shall have the meaning ascribed to it in Article 2 of this Agreement.

“Concession Fee” means the amount in Rupees that The Concessionaire is bound to pay to the Rogi Kalyan Samiti of the Hospital as per terms of this agreement and more elaborately described under Article 4 of this Agreement

“Concession Period” shall have the meaning ascribed to it in under Article 2 of this Agreement.

“DH” means the District Hospital of the concerned District

“DoHFW” means the Department of Health and Family Welfare, GoWB.

“Equipments and Accessories” means the specific model and make of the Equipments and Accessories procured by the WBMSCL and DoHFW and handed over through the Hospital Authority to the O&M partner for use in accordance with the terms of this agreement

“Encumbrance” means any encumbrance such as mortgage, charge, pledge, lien, hypothecation, security interest, assignment, privilege or priority of any kind having the effect of security or other such obligations and shall include without limitation any designation of loss payees or beneficiaries or any similar arrangement under any insurance policy pertaining to the Project, physical encumbrances and encroachments on the Project Site.

“Free Services” means CT scan / MRI scan /Digital X ray services/Dialysis services to be conducted at free of cost in accordance with the provision of this agreement

“Good Industry Practice” means the exercise of that degree of skill, diligence, prudence and foresight in compliance with the undertakings and obligations under this Agreement which would reasonably and ordinarily be expected from a skilled and experienced Person engaged in the implementation, operation and maintenance or supervision or monitoring thereof or any of them of a scheme of the type similar to that of the scheme.

“Government Agency” means GoWB, DoHFW, MSVP/Superintendent of _____ Medical College & Hospital / District Hospital / Sub Divisional Hospital, other competent personnel of the Hospital authorized by the MSVP/Superintendent of the _____ Medical College & Hospital / _____ District Hospital and or any state government or governmental department, The West Bengal Medical services Corporation Ltd (wholly owned by the Government of West Bengal), commission, board, body, bureau, agency, authority, instrumentality, court or other judicial or administrative body, central, state, or local, having jurisdiction over the Concessionaire, the Hospital or any portion thereof, or the performance of all or any of the services or obligations of the Concessionaire under or pursuant to this Agreement.

“GoWB” means the Government of the State of West Bengal.

“Hospital” means the _____ Medical College & Hospital / _____ District Hospital / _____ Sub Divisional Hospital under the Department of Health & Family Welfare, Government of West Bengal. _____ -

“Hospital Authority” means the competent body who are responsible for regulating/monitoring the operations of the services under PPP.

“Hospital Site” means the unit no. _____/room no. _____/ _____ area within the Hospital, particulars whereof are set out in **Schedule ‘A’** in which the scheme is to be implemented and the Services to be provided by the competent personnel of the Concessionaire in accordance with this Agreement.

“Month” means English Calendar Month

“Material Adverse Effect” means material adverse effect on (a) the ability of the Concessionaire to exercise any of its rights or perform/discharge any of its duties/obligations under and in accordance with the provisions of this Agreement and/or (b) the legality, validity, binding nature or enforceability of this Agreement.

“Material Breach” means a breach by either Party of any of its obligations under this Agreement which has or is likely to have a Material Adverse Effect on the Project and which such Party shall have failed to cure.

“Monitoring Agency” means the competent body in the Hospital who are responsible for monitoring the functioning of this scheme under PPP.

O&M partner means the organization selected for operating the services under PPP

“PPP” means Public Private Partnerships set up by the DoHFW, GoWB to operate the services by the selected O&M partner under the provisions of this agreement

"Price" means the price chargeable for _____ for each of the investigations to Referral Patients of the Hospital, fixed as per Schedule C hereof.

“Referral Patients” means the patients referred from the concerned Hospital of the DoHFW,GoWB as well as patients referred from any of hospitals of the DoHFW, GoWB to the _____ centre under PPP

“RKS” means Rogi Kalyan Samiti of the concerned Hospital

“Scheme” means the scheme promulgated by the DoHFW, GoWB for and in respect of the establishment and operation of the services in the hospital under PPP.

“SDH” means the Sub Divisional Hospital in the concerned District under the DoHFW, GoWB

“Termination” means early termination of this Agreement pursuant to Article 10 of this Agreement.

“Utilities” means water connection and electricity connection for the Centre under PPP.

“WBMSCL” means the West Bengal Medical Services Corporation Ltd (wholly owned by the Government of West Bengal)

1.2 Interpretation

In this Agreement, unless the context otherwise requires,

- a** any reference to a statutory provision shall include such provision as is from time to time modified or re-enacted or consolidated so far as such modification or re-enactment or consolidation applies or is capable of applying to any transactions entered into hereunder;
- b** references to Applicable Law shall include the laws, acts, ordinances, rules, regulations, notifications, guidelines or byelaws which have the force of law in any State or Union Territory forming part of the Union of India;
- c** the words importing singular shall include plural and vice versa
- d** the headings are for convenience of reference only and shall not be used in, and shall not affect the construction or interpretation of this Agreement;
- e** the words "include" and "including" are to be construed without limitation;
- f** any reference to day shall mean a reference to a English calendar day;
- g** any reference to month shall mean a reference to English calendar month;
- h** the Schedules to this Agreement form an integral part of this Agreement and will be in full force and effect as though they were expressly set out in the body of this Agreement;
- i** any reference at any time to any agreement, deed, instrument, license or document of any description shall be construed as reference to that agreement, deed, instrument,

license or other document as amended, varied, supplemented, modified or suspended at the time of such reference;

- j** any agreement, consent, approval, authorization, notice, communication, information or report required under or pursuant to this Agreement from or by any Party or the Monitoring Agency shall be valid and effectual only if it is in writing under the hands of duly authorised representative of such Party or the Monitoring Agency, as the case may be, in this behalf and not otherwise;
- k** unless otherwise stated, any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days and dates.

ARTICLE 2 CONCESSION

2.1 Grant of Concession

Subject to and in accordance with the terms and conditions set forth in this Agreement, the Hospital Authority hereby grant and authorise the Concessionaire to undertake round the clock operation and management of **Dialysis Services** installed by the DoHFW at _____ Hospital and to exercise and/or enjoy the rights, powers, benefits, privileges, authorisations and entitlements as set forth in this Agreement (“the Concession”).

2.2 Concession Period

The Concession hereby granted is for a period of four (4) years commencing from the date hereof and ending with _____ (“the Concession Period”) during which the Concessionaire is authorised to operate the Centre in accordance with the provisions hereof.

Provided that the Hospital Authority shall be entitled to review the performance of the Concessionaire at the end of each year from the date hereof.

Provided that in the event of Termination, the Concession Period shall mean and be limited to the period commencing from the date hereof and ending with the Termination Date.

2.3 Acceptance of Concession

The Concessionaire hereby accepts the Concession and agrees and undertakes to implement the scheme to operate and manage the _____ services installed by the DoHFW round the clock and to perform/discharge all of its obligations in accordance with the provisions hereof.

2.4 Hospital Site, Equipments & Accessories and Utilities

- a.** The Hospital Authority has on the date hereof handed over to the Concessionaire physical possession of the Hospital Site as described under Schedule “A” as per the applicable norms of The Clinical Establishment Acts and The Clinical Establishment Rules free from Encumbrance along with all the equipments and accessories described under Schedule “B” installed in the hospital site for operation and management of the **Dialysis Services**. The ownership of the hospital site and the equipments and accessories remains with the Hospital authority at all times. The Concessionaire shall only have the right to use the Hospital Site and the equipments

and accessories to undertake the services for Dialysis as O&M partner in accordance with the provisions of this Agreement.

- b. The Concessionaire shall not part with or create any Encumbrance on the whole or any part of the Hospital Site including the equipments and *accessories* installed therein.
- c. The Concessionaire shall not be allowed to carry out any structural modifications in the Hospital Site. However, the Concessionaire shall be allowed to make furnishing and painting of the premises if it so desires at its own cost.
- d. The Concessionaire shall not without the prior written consent or approval of The Hospital Authority use the Hospital Site for any purpose other than for the purpose of the Dialysis services and purposes incidental or necessary thereto.
- e. At all times during the pendency of this Agreement, The Hospital Authority shall provide/arrange for Utilities for the Centre. The water supply shall be free of cost. However if there is implementation of provision of water tax as per Government rules, then Water meter have to be installed by the private service provider at their own cost and pay the water tax as per meter reading to concerned authority.
- f. Use of electricity will be allowed by the hospital authorities for which the Concessionaire will pay consumption charges directly to the energy supplier as per prevailing rules of the energy supplier. Necessary NOC from the competent authority of the concerned hospital will be provided to the Concessionaire for procurement of separate electric meter for which the applicable security deposit and installation charges within the operating rooms under PPP will be borne by the Concessionaire. In case of installation of Sub-meter by the hospital authority under such circumstances where electric meter in own name may not be provided for time being the cost towards installation of such sub-meter shall be borne by the private partner. The Hospital Authority will raise bills as per reading in the sub-meter which has to be paid within due time by the private partner. However, the hospital authority shall arrange at their cost installation of the electrical connection and augmentation, if required, in the operating room/s for the facilities undertaken by The Concessionaire under PPP.
- g. **The display board of the Dialysis services shall also indicate in vernacular language**
“Najyamuller Rog Nirnoy Kendra
Dialysis Pariseva
Paschimbanga Sarkar o _____ –er joutha udyog”

ARTICLE 3

Security Deposit for the Equipments and Accessories

- a. The Concessionaire shall furnish **The Security of Rs _____** (figures) _____ (in words) in the form of Bank Guarantee Deposit with any nationalized/scheduled Bank acceptable to the DoHFW valid for **54 months** from the date of this agreement towards security for the cost of equipment provided to the Concessionaire for use of the services as O&M partner

- b The Bank Guarantee as stated above shall be issued by the concerned Bank in non-judicial stamp paper of Rs 100/- (Rs one hundred only) in favour of MSVP / Superintendent of the _____ Hospital
- c The amount of the security deposit as stated above shall be **5 (five) %** of the cost at which the equipment have been procured by the WBMSCL on behalf of the DoHFW from the selected Vendor through the process of tendering.
- d **The total cost of Dialysis Machines and Water Treatment Plant procured by the WBMSCL is Rs 64,89,000/- (Rs sixty four lakh eighty nine thousand only) for ten (10) Bedded Dialysis unit at _____ Hospital Rs 41,79,000/- (Rs forty one lakh seventy-nine thousand only) for five (5) Bedded Dialysis unit at _____ Hospital. The Concessionaire shall compute the amount as mentioned under “a, b and c” above on the basis of the total cost and the computed amount shall be kept as security by way of Bank Guarantee as per provision of this agreement**
- e The Security deposit as stated above under ‘a’ shall be liable to be forfeited if this agreement is terminated before its due date of completion for any of the default by the Concessionaire specified under Article 11 entitling The Hospital Authorities to terminate this Agreement
- f In the event of renewal of this agreement for another term for four years after the date of expiry of this agreement, the validity of the Bank Guarantee for the security deposit shall be required to be extended for another 54 months

ARTICLE 4

Concession Fee

- a The Concessionaire shall pay to the Rogi Kalyan Samiti of the Hospital an amount of Rs ____ in each Quarter as Concession Fee for Dialysis services provided at _____ Hospital under the scheme or 20% of the gross total income generated from the facility in that quarter whichever is higher. For purpose of calculation of revenue earned from patients referred from Government hospitals the Rates for Dialysis Services as approved in Schedule- C will be taken into consideration. However the cost towards procurement of Dialysis Kits will not be included towards calculation of concession fees.
- b The concession fee shall be deposited / issued in the account of the Rogi Kalyan Samiti (RKS) of the Hospital by the Concessionaire for each Quarter not later than 10th working day of the following month of each of the completed Quarter.
- c The amount of Premium payment / concession fees so received by the RKS will be fully utilized by it for providing free services to the patients eligible for free services coming to the Dialysis Services facilities of the said hospital as per provisions mentioned under Article 6 of this Agreement and cannot be utilized for any other purpose until further Government orders. RKS or the Hospital Authorities will pay the service charges to the Private Partner against bill raised by the Private Partner for such cases after satisfactory verification of documents by accounts section of the hospital as per existing Government Order.
- d Failure to deposit Premium fee by the Private Partner (PSP) for a given quarter within the due date as per terms of the agreement shall result in termination of the agreement as described under Article 11.
- e The Department shall review the amount of concession fee in case of renewal of this agreement at the end of the tenure of this agreement

ARTICLE 5

PRICE AND PAYMENT

5.1 Price, Levy, Collection and appropriation of charges

- a. Subject to the provisions of this Agreement, Private Service Provider will carry out all the required investigations based on Government rates fixed by State level technical experts and approved by the DoHFW and incorporated in the agreement. The rates fixed for patients of the Government Hospital are much lower than the market rates. The service will be totally free to the patients referred from government hospitals and the partners will raise bills with all relevant documents to the hospital authority on monthly basis for payment. No charges whatsoever will be collected by the private service provider from any patients referred from government facility and attending the respective units for necessary investigations. The approved department rates for Dialysis services in O&M model are provided in under Schedule C of this Agreement.
- b. The Concessionaire shall ensure that the rates as provided under Schedule C are prominently displayed in the facility where the services are provided
- c. Private Service Provider may conduct Dialysis Service for patients referred by private practitioners/private hospitals. However they have to render service to the patients at the same rate as approved for Government cases.
- d. Provided that the patients of the concerned Hospital and Hospitals under the DoHFW,GoWB will get priority at all times for use of the _Dialysis services operated under this agreement.

ARTICLE 6

FREE SERVICES AND PAYMENTS

User charges

- i. Private Service Provider will carry out all the required investigations based on Government rates fixed by State level technical experts and approved by the DoHFW and incorporated in the agreement. The rates fixed for patients of the Government Hospital are much lower than the market rates. The service will be totally free to the patients referred from government hospitals and the partners will raise bills with all relevant documents to the hospital authority on monthly basis for payment. No charges whatsoever will be collected by the private service provider from any patients referred from government facility and attending the respective units for necessary investigations. The approved department rates for Dialysis services in O&M model are provided in under Schedule C of this Agreement.
- ii. Rates should be prominently displayed by the Private Service Provider in the facilities where these services are provided.
- iii. Private Service Provider may conduct Dialysis Services for patients referred by private practitioners/private hospitals. However they have to render service to the patients at the same rate as approved for Government cases. Also, patients of referred by the concerned government hospital will get priority for use of the services.

B. Free Services

- i. The policy of free services shall be applicable to all patients as per present policy of the State government. Free services will be provided to all such patients eligible for free services as per guidelines of the DoHFW. These patients will be referred by the MSVP of the Medical College/Superintendent of the DH/SDH/SGH/SSH recommending for free services with the required hospital prescription of the concerned patients.
- ii. Patients receiving such free services should be provided with full 100 % free services i.e. no amount can be collected from such referred patients.
- iii. For the purpose of referral of government cases the hospital authority will issues Vouchers in fixed format as approved by DoHFW. The vouchers will be issued by the head of the institutions or his/her authorized representatives .The vouchers will be preserved by the PPP partners after conducting the Dialysis Services. The copy of such vouchers is to be produced along with other necessary documents to the hospital authority while producing claim for payment against free cases.
- iv. No partner shall refuse cases referred as “free” by the competent authorities of the Hospital as hospital authorities will make payments for all such cases to the Private Service Provider on monthly basis and on production of bill.
- v. The O&M partner shall keep relevant record for such free services (e.g photocopy of prescription). The monthly information system shall include necessary details of free services provided during the month. Also the same documents have to be uploaded in the approved software of the department.
- vi. The RKS of the concerned hospital or the hospital authority shall reimburse the cost for such free services to the O&M partner on monthly basis on submission of required documents as per existing Government orders.
- vii. Monitoring of implementation of the policy on free services shall be undertaken by the authorized personnel of RKS.
- viii. The selected O&M partner will have to pay concession fee to the Rogi Kalyan Samiti (RKS) of the concerned hospital in each quarter. The concession fee will be 20% of the gross revenue earned from both government and private cases in each quarter or a fixed amount in each quarter whichever is higher.
- ix. Modality of payment:
 - a) As per the present policy of the State Government the service will be totally free to the patients, to be paid by the hospital authority on raising monthly bills by 10th of subsequent month.
 - b) The partner will raise bill for payment against free cases to hospitals authority on monthly basis by 10th of the subsequent month.
 - c) The rates for Dialysis Service as mentioned in the Request for proposal document is inclusive of all taxes (GST) as per existing government rules. The Private partner will not be allowed to add any taxes on the bills raised to the Hospital Authority for payment against free services rendered by them.
 - d) The bills should be supported with signed vouchers by the hospital authority along with all other document for payment by hospital authority
 - e) The hospital will make necessary payment for bills raised for free service after proper scrutiny by the account section.
 - f) Partners are supposed to pay electricity bills CMC charges directly to service provider. In case of default of payment of electricity bills the amount will be deducted monthly from the total amount payable to the partner on monthly basis for free cases.
 - g) In case of default of CAMC payment in due time the same will be deducted from the total amount payable to the PPP partner on monthly basis by hospital authority .The defaulted amount will be paid directly to service provider by hospital authority in such circumstances and relevant notice as per terms and conditions of this tender document's will be issued

ARTICLE 7
CONCESSIONAIRE'S OBLIGATIONS

In addition to and not in derogation or substitution of any of its obligations under this Agreement, the Concessionaire shall have the following obligations:

7.1 Implementation of the scheme and operation & maintenance of equipments

The Concessionaire shall

- a** For O&M type of units (herein referred to the Dialysis unit) the selected private partner will have to start patient service soon after the commissioning of the unit and handing over of the equipments and accessories to the PPP partner by the hospital authority along with signing of a possession certificate and a legal agreement.
- b** Installation of electricity meter in its own name will be undertaken by the O&M partner. In case of installation of Sub-meter by the hospital authority under such circumstances where electric meter in own name may not be provided for time being the cost towards installation of such sub-meter shall be borne by the private partner. The Hospital Authority will raise bills as per reading in the sub-meter which has to be paid within due time by the private partner.
- c** be responsible, as per provision of this agreement, for proper maintenance of the machines, related equipments and accessories provided by the WBMSCL on behalf of the DoHFW for this scheme and comply with the conditions of CMC relating to the contracted value and terms of payment for CMC as set out by the WBMSCL on behalf of the DoHFW with the concerned supplier during procurement of equipments;
- d** In case the private partner fails to pay the concession fees /20% of the gross revenue generated in the quarter whichever is higher within 10th of the first month of the subsequent quarter, interest @ 1% per month on the due concession fees will be imposed for each 15 days delay thereof subjected to a maximum allowable extension period of 3 months from last due date of payment of concession. All dues along with applicable interest have to be cleared within the allowable limit of 3 months beyond which relevant procedure for termination of contract and floating of e-tender for selection of new private partners will be initiated by the Hospital Authority/Department of Health & Family welfare. However penalty clause will be applicable till the date of decommissioning of the unit and handover of site under possession of the private partner to the hospital authority.
- e** As per Clause 7.1.d above if the partners fails to clear the due Concession fees with applicable penalty charges within the time allowed the hospital authority will not be liable to make any further payments to the private party for free services provided by them until all such due with penalty are cleared. Moreover the private partner has to continue service under all circumstances even if termination clauses are applied for default of payment of concession fees or any other reasons by the hospital authority until the date of decommissioning of the unit and handover of site under possession of the private partner to the hospital authority in Interest of public service. In case there is any deviation in service the hospital authority may initiate appropriate action in form of FIR and other relevant measures under rule of law including black listing of the private partner.

- g** In case hospital authority fails to clear the dues within the stipulated time and date interest @ 1% per month on the dues may be charged for each 30 days delay and thereof. This is subjected to the clause that the private partners pay the quarterly premium and raise bills with all proper documents within stipulated time as mentioned in clause 7d.
- h** be responsible to sign the CMC with the supplier as per the contracted value three months prior to completion of warranty period;
- i** be responsible to make necessary payments for CMC and repair charges to the supplier in accordance with the terms of the agreement by the WBMSCL with the supplier.
- j** The service provider will have to maintain an uptime of 90% with maximum 7 days of downtime at a stretch for Dialysis of the facility. In case they fails to do so the provider will have to pay a sum equivalent to a average cost of Dialysis multiplied by the total Dialysis done per day during a given month for a machine, for each day of shut down beyond 7 days. If shut down extends beyond 30 days due to Technical/Administrative reasons on part of service provider, the contract may be cancelled. The provider shall make alternative arrangements for provisions of Dialysis Service (including free transportation of patients) if machine are broken down for a period greater than 24 hours. The rates of Dialysis Service as per contracted value in agreement will not change in any case.
- k** The Private Service Provider will comply with all statutory requirements as applicable under The West Bengal Clinical Establishment Act 1950 and The West Bengal Clinical Establishment Rules 2003 as amended hereafter and other applicable Acts and Laws. It may be mentioned here that the service provider will have to comply with THE WEST BENGAL CLINICAL ESTABLISHMENTS (REGISTRATION, REGULATION AND TRANSPARENCY) Act, 2017. And subsequent rules as and when notified by the State Government.
- l** The Private Service Provider will also comply with the fire safety requirements as per West Bengal Fire Services Act, 1950 as amended up to date.
- m** The Private Service Provider is responsible for entire operation and management of these facilities with their own resources including deployment of Medical, Technical and other personnel. The Private Service Provider needs to comply with the relevant Clinical Acts, Laws and other applicable norms. It may also be mentioned here that the *Private Service Provider are required to deploy technical persons who have completed the relevant diploma courses of conducted by State Medical Faculty of West Bengal or from institutions affiliated under State Medical Faculty of West Bengal or similar such standards as are acceptable to the signatory to the agreement on behalf of the DoHFW.*
- n** procure the Clearance licenses required for commencing the services including the licenses required under the Clinical Establishment Acts and Rules, Trade License etc;
- o** commence providing services in the hospital only after the Hospital Authority has duly certified that all requirements as applicable for commencing the services in respect thereof have been fulfilled. Provided, the Concessionaire shall procure such certification from the Hospital Authority latest by two months from the date hereof failing which this Agreement shall be liable to be terminated;

- p** conduct Tests/Services as per the Good Industry Practices and comply with the requirements of the relevant Clinical Establishment Acts and Rules as applicable;
- q** deliver reports for **Dialysis** services to the patients latest by 24 hrs of conducting the test/investigation. One set of films in case of **Dialysis** services is to be given to patients;
- r** be responsible for proper maintenance and upkeep of the equipments and accessories in accordance with the provision of the agreement ;
- s** maintain cleanliness; dispose off biomedical waste as per applicable norms;
- t** arrange for and maintain security of the Hospital Site where the services are provided at its own cost;
- u** maintain the Clearances by complying with the conditions there under and renewals if any required from time to time and comply with all statutory requirements for running its operation and submit the same for review of the Hospital Authority as and when required;
- v** comply with the requirements mentioned under Article ‘‘2.4 e ‘‘ for electricity and make prompt payment of user charges for the electricity used for conducting the services in the Hospital Site;
- w** ensure back up power (generator services) for continuation of services in case of disruption in electrical power.
- x** regularly pay salaries and other emoluments to the staff engaged by it for the services operated by The Concessionaire;
- y** submit a list of the personnel engaged for the services as O&M partner to the Hospital Authority and provide identity card issued by the Hospital Authority to all the personnel engaged in the Centre;
- z** display conspicuously in the Hospital Site, the list of Investigations with Price for the prescribed services for the patients of Government Hospitals as well as the price for the patients referred by the private hospitals/ private practitioners;
- aa** obtain and maintain insurances within one month of start of operation of the services for the Hospital Sites including the equipments as per Good Industry Practice including insurances against damages to property due to force majeure, insurances against theft and loss of equipment and such other insurances as are required for the Services undertaken by The Concessionaire;
- bb** install a suggestion box in the Hospital Site to enable patients to give feedback based on which actions are to be taken for patient/customer satisfaction.
- cc** The DoHFW, if it is so required, has the discretion to enter into a supplementary agreement with Private partners incorporating certain new/ amended clauses based on mutual consent of both parties. However the department will have the discretion not to issue further renewal of existing agreement if the PPP partners do not agree with the revised terms and conditions of supplementary agreement and the department shall be free to issue tender for selection of new Private partner. Further the hospital authority may issue relevant notice 60 days prior to floating of e-tender for selection of new private partner on non compliance of revised terms and conditions as may be issued by the department.
- dd** For the purpose of renewal of existing agreement the private partner has to apply to hospital authority 6 months prior to date of completion of existing agreement. The hospital authority shall ensure proper and timely review of performance of the unit at least at an interval of six months. A hospital level monitoring committee should be constituted for this purpose under the MSVP/Superintendent of the hospital who will monitor the performance of the unit on regular basis and submit their report to the hospital authority.

- ee** For purpose of review of performance important criterias like timely delivery of reports, collection of user charges as per government rates, proper display of rates in the facility, strict adherence to SOP while running the units, deployment of qualified manpower as per norms, regular payment of all dues including concession fees, electricity charges, CAMC charges, shall have to be considered.

7.2 Educational Facilities:

- a.** The Concessionaire will ensure that the entire system operated by them are accessible for teaching and training purposes for undergraduates and postgraduates students at any point of time at pre-designed schedule.
- b.** The Concessionaire shall also ensure that the unit operated by it in this Hospital will be integrated in the Teleradiology facilities as and when such facilities are considered by the DoHFW for implementation in future in this state for the purpose of review and reports as well as for training and teaching purposes for the radio diagnostic system
- c.** The schedule for such teaching and training where utilization of the diagnostic facilities is mandated will be decided between the hospital authority or their authorized representatives and the private partner.
- d.** The Private Partner (PSP) shall also ensure that the unit operated by it in this Hospital will be integrated in the Teleradiology facilities as and when such facilities are considered by the DoHFW for implementation in future in this State for the purpose of review and reports as well as for training and teaching purposes for the radio diagnostic system.

7.3 Information System:

- a** Appropriate and approved software packages will be installed by the Private Service Provider to disseminate relevant information through on daily basis. The software as approved by the DoHFW will be used for all kinds of transactions done by the Private Service Provider so that web based monitoring at any point of time can be done by the concerned authorities of the DoHFW at the state level and at the hospital level. The cost of installation and maintenance of the software has to be borne by the private partner.
- b** The O&M partner, with the help and support of the DoHFW, shall also work out installation of multi facility monitoring mode and establish connectivity with other health facilities for transmitting the digital images undertaken for each of the investigations for the purpose of review and reports as and when required.
- c** The Concessionaire shall maintain all necessary records relating to claim for reimbursement of free services provided to the patients in each month.
- d** The Concessionaire shall bear all expenses as part of their operating costs for procurement and usage of required facilities/services for generating the above information and submitting required documents in this respect.

- e As and when the new real time web based software is launched by the DoHFW, the private Service Providers will have to implement the software package in their units and comply with the SOP (Standard Operating Procedure) for the software as issued and modified by the DoHFW from time to time.

ARTICLE 8

OBLIGATIONS OF THE HOSPITAL AUTHORITY

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, the Hospital Authority shall have the following obligations:

- a make provision for the required ready to use space as per clinical establishment norms as applicable for the **Dialysis** services and supply of water (including water tax, if any) free of cost by the hospital authorities to the Concessionaire for running of the services;
- b arrange at its cost installation of electrical connection including augmentation, if required, within the Hospital Site to meet the requirement for electrical power for providing the required services by The Concessionaire;
- c monitor completion of the process of installation and commissioning of all equipments and related furniture and fixtures by the concerned supplier in compliance with the agreement signed with the WBMSCL to enable The Concessionaire for commencement of the services as per provisions of this agreement;
- d Issue necessary clearance to The Concessionaire to commence services as per provisions of this agreement after installation of equipments by the supplier
- e Use of electricity will be allowed by the DoHFW EOM partner will pay consumption charges directly to the energy supplier as per prevailing rules of the energy supplier. Necessary NOC from the competent authority of the concerned hospital will be provided to EOM partners for procurement of separate electric meter for which the applicable security deposit and installation charges within the operating rooms under PPP will be borne by the EOM partner. However, it is to be noted that the DoHFW shall arrange at its cost installation of the electrical connection and augmentation if required up to the door step of the operating rooms for the facilities undertaken under PPP.
- f In case of installation of Sub-meter by the hospital authority under such circumstances where electric meter in own name may not be provided for time being the cost towards installation of such sub-meter shall be borne by the private partner. The Hospital Authority will raise bills as per reading in the sub-meter which has to be paid within due time by the private partner.
- g grant or where appropriate provide necessary assistance to the Concessionaire in securing Clearances;
- h ensure peaceful use of the Hospital Site and free access of all the equipments and accessories in the Hospital Site by the Concessionaire under and in accordance with the provisions of this Agreement without any hindrance from the Hospital Authority or any Governmental Agency or persons claiming through or under it/them;

- i** refer patients for free services in accordance with the provisions of this agreement;
- j** make timely reimbursement of the cost of free services provided by the Concessionaire in accordance with Article 6 of this agreement;
- k** monitor that the supplier, during the warranty and thereafter as per terms of contract with the supplier by the WBMSCL/DoHFW complies with requirements of comprehensive annual maintenance and repair services including testing and calibration, labour and spares;
- l** form a monitoring committee to oversee the operational activities of the **Dialysis** services and ensure that the services are provided as per provisions of the agreement
- m** undertake performance review for the services provided by The Concessionaire on quarterly basis;
- n** Monitoring installation of approved soft ware packages of the DoHFW for disseminating information on multiple parameters on operation and management for the **Dialysis** services undertaken by the Concessionaire in the concerned hospital;
- o** monitor signing of the CMC by the Concessionaire with the supplier as per the contracted value three months prior to completion of warranty period;
- p** facilitate integration of the Concessionaire and the supplier to ensure services as per provision of this agreement by the Concessionaire including maintenance of equipments.
- q** The DoHFW, if it is so required, has the discretion to enter into a supplementary agreement with Private partners incorporating certain new/ amended clauses based on mutual consent of both parties. However the department will have the discretion not to issue further renewal of existing agreement if the PPP partners do not agree with the revised terms and conditions of supplementary agreement and the department shall be free to issue tender for selection of new Private partner. Further the hospital authority may issue relevant notice 60 days prior to floating of e-tender for selection of new private partner on non compliance of revised terms and conditions as may be issued by the department.
- r** For the purpose of renewal of existing agreement the private partner has to apply to hospital authority 6 months prior to date of completion of existing agreement. The hospital authority shall ensure proper and timely review of performance of the unit at least at an interval of six months. A hospital level monitoring committee should be constituted for this purpose under the MSVP/Superintendent of the hospital who will monitor the performance of the unit on regular basis and submit their report to the hospital authority.
- s** For purpose of review of performance important criterias like timely delivery of reports, collection of user charges as per government rates, proper display of rates in the facility, strict adherence to SOP while running the units, deployment of qualified manpower as per norms, regular payment of all dues including concession fees, electricity charges, CAMC charges, shall have to be considered.

ARTICLE 9

OBLIGATIONS OF THE RKS

In addition to and not in derogation or substitution of any of its other obligations under this Agreement, the Hospital Authority shall have the following obligations:

- a. The RKS shall receive the premium fees as described herein from The Private Partner and keep separate accounts thereof;
- b. The RKS or the Hospital authority shall make payments for the free services from the available fund and as per extant government rules to The Private Partner against its claims for service charges to free patients recommended by The Hospital Authority and keep proper accounting thereof;
- c. The RKS shall report within 5(five) days of default to The Hospital Authority any failure on the part of The Private Partner to deposit premium fees receivable from them within the schedule timeline as specified in article 4.b herein;
- d. The RKS shall submit quarterly report within 15th working day of the next quarter to The Hospital Authority containing the receipts of premium fees from The Private Partner and payments there from of the service charges of free patients;
- e. The RKS shall provide the above services free of cost.

ARTICLE 10

REPRESENTATIONS AND WARRANTIES, DISCLAIMER

10.1 Representations and Warranties of the Concessionaire

The Concessionaire represents and warrants to the Hospital Authority that:

- a** it is duly organised, validly existing and in good standing under the laws of India;
- b** it has full power and authority to execute, deliver and perform its obligations under this Agreement and to carry out the transactions contemplated hereby;
- c** it has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Agreement;
- d** it has the financial standing and capacity to implement the scheme;
- e** this Agreement constitutes its legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- f** it is subject to civil and commercial laws of India with respect to this Agreement and it hereby expressly and irrevocably waives any immunity in any jurisdiction in respect thereof;
- g** the execution, delivery and performance of this Agreement will not conflict with, result in the breach of, constitute a default under or accelerate performance required by any of the terms of the Concessionaire's Memorandum and Articles of Association or any Applicable Laws or any covenant, agreement, understanding, decree or order to which it is a party or by which it or any of its properties or assets are bound or affected;

- h** there are no actions, suits, proceedings or investigations pending or to the Concessionaire's knowledge threatened against it at law or in equity before any court or before any other judicial, quasi judicial or other authority, the outcome of which may in the aggregate may result in Material Adverse Effect;
- i** it has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Government Agency which may result in Material Adverse Effect;
- j** it has complied with all Applicable Laws and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have Material Adverse Effect;
- k** no representation or warranty by the Concessionaire contained herein or in any other document furnished by it to the Hospital Authority, the DoHFW, the WBMSCL or to any Government Agency in relation to Clearances contains or will contain any untrue statement of material fact or omits or will omit to state a material fact necessary to make such representation or warranty not misleading; and
- l** no bribe or illegal gratification has been paid or will be paid in cash or kind by or on behalf of the Concessionaire to any Person to procure the Concession.

10.2 Representations and Warranties of the Hospital Authority

The Hospital Authority represents and warrants to the Concessionaire that:

- a** it has full power and authority to grant the Concession;
- b** it has taken all necessary action to authorize the execution, delivery and performance of this Agreement;
- c** This Agreement constitutes the Hospital Authority's legal, valid and binding obligation enforceable against it in accordance with the terms hereof.

10.3 Obligation to notify change

In the event that any of the representations or warranties made/given by a Party ceases to be true or stands changed, the Party who had made such representation or given such warranty shall promptly notify the other of the same.

ARTICLE 11 TERMINATION

11.1 Causes of Termination

Any of the following events shall constitute an event of default by The Concessionaire entitling the Hospital Authority to terminate this agreement:

- a.** Failure to commence services in the Hospital within two months of signing the agreement

- b. Failure to comply with the statutory requirements, Clinical Establishment Acts, Rules and other applicable norms and any of the terms of this agreement.
- c. Failure to comply with the requirement of the duration of services as per provision of this agreement
- d. Collecting charges from the patients in violation of the Policy on User Charges
- e. Failure by the Concessionaire to deliver timely reports on more than five occasions in a month in case of **Dialysis Services**.
- f. Inaccuracy detected in at least three occasions in a period of three months in the reports generated in the Centre for **Dialysis**.
- g. Error detected in more than two occasions in three months in recording the correct entry of the number of patients referred from the concerned hospital as well as by the private practitioners/private hospitals in each month.
- h. Criminal indictment of the promoters, member/s of the Board of Directors, chief functionaries, key personnel engaged by the Concessionaire for operation and management of the services.
- i. Engagement of unqualified persons for running of the Services
- j. Use of the allocated space by the Concessionaire for any other purpose other than the approved scheme.
- k. In case the private partner fails to pay the concession fees /20% of the gross revenue generated in the quarter whichever is higher within 10th of the first month of the subsequent quarter, interest @ 1% per month on the due concession fees will be imposed for each 15 days delay thereof subjected to a maximum allowable extension period of 3 months from last due date of payment of concession. All dues along with applicable interest have to be cleared within the allowable limit of 3 months beyond which relevant procedure for termination of contract and floating of e-tender for selection of new private partners will be initiated by the Hospital Authority/Department of Health & Family welfare. However penalty clause will be applicable till the date of decommissioning of the unit and handover of site under possession of the private partner to the hospital authority.
- l. Failure to execute CMC of the equipments and accessories in accordance with the terms of this agreement
- m. Failure to undertake proper maintenance and upkeep of the equipments and accessories in accordance with the provision of the agreement

11.2 Notice/Show Cause and Cure and Termination

- a. Upon occurrence of any of the defaults, The Hospital Authority shall issue notice of show cause to the Concessionaire.

- b If the Concessionaire fails to demonstrate to The Hospital Authority that the default has been cured or fails to satisfy the Hospital Authority, the Hospital Authority may terminate this Agreement.
- c The decision of the Hospital Authority to terminate the agreement shall be final and binding on the Concessionaire.

11.3 Termination due to Change in Law

- a The Concessionaire shall have the right to terminate on account of a “Change in Law”. For the purpose hereunder Change in Law means any of the following events which, as a direct consequence thereof, has a Material Adverse Effect:
 - (i) adoption, promulgation, modification, reinterpretation or repeal after the date of this Agreement by any Government Agency of any Applicable Law by any Government Authority; or
 - (ii) the imposition by any Government Agency of any material condition (other than a condition which has been imposed as a consequence of a violation by the Concessionaire of any Clearance or Applicable Law) in connection with the issuance, renewal or modification of any Clearance after the date of this Agreement; or
 - (iii) any Clearance previously granted, ceasing to remain in full force and effect for reasons other than breach/violation by or the negligence of the Concessionaire or if granted for a limited period, being renewed on terms different from those previously stipulated.
- b Provided nothing contained in this Section ‘10.3 a’ shall be deemed to mean or construe any increase in taxes, duties, cess and the like effected from time to time by any Government Agency, as Change in Law.
- c In the event of Change in Law the Concessionaire may propose to the Hospital Authority modifications to the relevant terms of this Agreement, which are reasonable and intended to mitigate the effect of the Change in Law. Thereupon, the Parties shall, in good faith, negotiate and agree upon suitable changes in the terms of this Agreement so as to place the Concessionaire in substantially the same legal, commercial and economic position as it were prior to such Change in Law. Provided however, that if the resultant Material Adverse Effect is such that this Agreement is frustrated or is rendered illegal or impossible of performance in accordance with the provisions hereof, this Agreement shall stand terminated.

11.4 Consequences of Termination

- a Upon Termination of this Agreement for any reason whatsoever under Section 10.1, the Concessionaire shall deliver possession of the Hospital Site and all equipments and accessories provided to it by The Hospital Authority after removing from the Hospital Site the materials installed by The Concessionaire within a reasonable time agreed by both the parties through discussion. In the process of handing over possession of the Hospital Site and equipments and accessories, it shall refrain from damaging the Hospital Site and the equipments and accessories in any manner whatsoever.
- b The Hospital Authority shall have the power and authority to :

- (i) enter upon and take possession and control of the Hospital Site and the Equipments and Accessories after making an inventory in presence of two witnesses;
- (ii) prohibit the Concessionaire and any Person claiming through or under the Concessionaire from entering upon/dealing with the equipments and accessories

Article 12

Force Majeure

If the performance of the agreement by either party is delayed, hindered or prevented or is otherwise frustrated by reason of *force majeure*, which shall mean war, civil commotion, fire, flood, action by any government or any event beyond the reasonable control of the party affected, 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 and as from the date of that notification The Hospital Authority may at its discretion either terminate the agreement forthwith or suspend the performance of the agreement for a period not exceeding 6 months. If at the expiry of such period of suspension any of the reasons for the suspension still remain, The Hospital Authority and The Private Partner may either agree a further period of suspension or treat the agreement as terminated. In the event of the Contract being terminated by reason of *force majeure*, The Private Partner shall take such steps as are necessary to bring the Services to an end, in a cost effective, timely and orderly manner. The Private Partner shall submit an account in writing which shall state the amount claimed taking into account all charges and costs properly incurred or committed by The Private Partner in relation to the agreement or its termination which cannot be recovered. Provided that payments are not subject to dispute, The Hospital Authority shall:

- a. Arrange to pay through RKS all charges and sums due against free patients recommended by the Hospital Authority and outstanding under the terms of this agreement up to and including the date of termination ("the Relevant Date");
- b. Arrange to reimburse all reasonable expenses necessarily incurred by the Consultants after the Relevant Date in winding up the agreement.

ARTICLE 13

DISPUTE RESOLUTION

13.1 Amicable Resolution

Where a dispute arises under this Agreement, the Parties shall make all reasonable efforts to resolve the dispute through good faith negotiations failing which they shall

attempt at dispute resolution with the intervention of The Principal Secretary or his authorized person, the DoHFW, GoWB.

13.2 Arbitration

Except for a dispute in connection with Termination, in which respect the decision of the Hospital Authority shall be final, any dispute between the Parties arising out of or relating to this Agreement including the meaning or interpretation of any of the terms set out hereto or any other matters which cannot be resolved through good faith negotiations shall be finally referred to an arbitrator appointed by the Principal Secretary, DoHFW, GoWB. Both the parties shall abide by the opinions of the arbitrator in settling the dispute.

ARTICLE 14

MISCELLANEOUS

14.1 Validity

a. Validity

- i. This Renewal Agreement shall be valid for a period of FOUR (4) years effective from 00/00/0000 [Please enter the date as approved in the Government order for renewal]. This agreement is subjected to renewal for another term of 4 years based on satisfactory consecutive annual performance review reports during the present period of contract or as decided by the Department of Health & Family Welfare regarding renewal policy from time to time.
- ii. The Hospital Authority may modify the terms of the initial agreement during renewal of the Agreement
- iii. The scheme is governed under a legal instrument – an agreement signed by the concerned hospital authorities with the Private Partners. The agreement is valid for four years renewable thereafter based on performance appraisal and on mutual consent. *The DoHFW, if it is so required, has the discretion to enter into a supplementary agreement with Private Partners incorporating certain new /amended clauses based on mutual consent of both parties. However the department will have the discretion not to issue further renewal of existing agreement if the PPP partners do not agree with the revised terms and conditions of supplementary agreement and the department shall be free to issue tender for selection of new Private partner prior to 60 days before expiry of existing agreement.*

b. Hand back of Hospital Site

Upon the expiry of the validity of this Agreement by efflux of time and in the normal course, the Concessionaire shall hand back peaceful possession of the Hospital Site and the equipments and accessories provided to it to the Hospital Authority free of cost and in ideal condition. All the equipments must be in absolute running condition

c. Assignment and Charges

- i. The Private Partner shall under no circumstances whatsoever create Encumbrance over the Hospital Site and the equipments installed within the Hospital Site. The Private Partner (PSP) shall not assign this Agreement or the

rights, benefits and obligations save and except with prior written consent of the Hospital Authority.

ii. The Hospital Authority shall be free to assign all or a part of its rights, benefits or novate its obligations under this Agreement at any time.

d. Indemnity

The Private Partner (PSP) shall indemnify, defend and hold the Hospital Authority harmless against any and all proceedings, actions and third party claims arising out of a breach by Private Partner (PSP) of any of its obligations under this Agreement.

e. Governing Law and Jurisdiction

This Agreement shall be governed by the laws of India. The Courts of Kolkata in West Bengal, India, shall have jurisdiction over all matters arising out of or relating to this Agreement.

f. Redressal of Public Grievance

The Private Partner (PSP) shall promptly redress the grievances, if any, reported by the patients, Competent Authority etc. on account of deficiencies in services provided at the _____ Centre and shall be liable for any deficiency in service committed to its consumers under the prevailing consumer law.

g. Supersession & Order of Priority

This Agreement constitutes the entire understanding between the parties hereof with and supersedes any previous expressions of intent, correspondence, understandings or agreement in respect of the Project.

Without prejudicing the aforesaid, the Parties hereby agree that in case of any inconsistency between the provisions of this Agreement and the Scheme, the provisions of the Scheme shall prevail.

h. Amendments

This Agreement and the Schedules together constitute a complete and exclusive understanding of the terms of the Agreement between the Parties on the subject hereof and no amendment or modification hereto shall be valid and effective unless agreed to by all the Parties hereto and evidenced in writing.

i. Notices

Unless otherwise stated, notices to be given under this Agreement including but not limited to a notice of waiver of any term, breach of any term of this Agreement and termination of this Agreement, shall be in writing and shall be given by hand delivery, Speed Post, recognised national/international courier, or by email with scanned documents, or facsimile transmission and delivered or transmitted to the Parties at their respective addresses set forth below:

If to Hospital Authority

_____ (name and designation of the person)

_____ (address)

Mail id:

Fax No:

If to RKS

_____ (name and designation of the person)

_____ (address)

Mail id:

Fax No:

If to the Private Partner (PSP)

_____ (name and designation of the person)

_____ (Organisation)

_____ (address)

Mail id:

Fax no.

Or such address or facsimile number as may be duly notified by the respective Parties from time to time, and shall be deemed to have been made or delivered (i) in the case of any communication made by letter, when delivered by hand, by Speed Post, by recognized national/international courier or by mail (registered, return receipt requested) at that address and (ii) in the case of any communication made by facsimile, when transmitted properly addressed to such facsimile number.

j Severability

If for any reason whatsoever any provision of this Agreement is or becomes invalid, illegal or unenforceable or is declared by any court of competent jurisdiction or any other instrumentality to be invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall not be affected in any manner, and the Parties shall negotiate in good faith with a view to agreeing upon one or more provisions which may be substituted for such invalid, unenforceable or illegal provisions, as nearly as is practicable, provided failure to agree upon any such provisions shall not be subject to dispute resolution under this Agreement or otherwise.

k. No Partnership

Nothing contained in this Agreement shall be construed or interpreted as constituting a partnership between the Parties. Neither Party shall have any authority to bind the other in any manner whatsoever.

SCHEDULE 'A' OF THE AGREEMENT

Hospital Site, Equipments, Accessories and Possession Certificate

- 1. Hospital Site: Room no/s. ____ (with site map)**
- 2. Equipments and Accessories: provided under Schedule 'B' of this Agreement**

Possession Certificate

Whereas it has been decided by the _____ Hospital that _____ services would be set up in the Hospital with the participation of private sector by – _____ (the Concessionaire) to provide _____ Services in accordance with the Agreement executed on _____ between the Concessionaire and the _____.

Whereas in terms of the aforesaid Agreement executed, the Hospital Authority is required to provide adequate rent-free space at _____ Hospital to the above Concessionaire for running of services for _____ established by the Hospital Authorities through the selected vendor who has installed the equipments.

Whereas the covered space in total area of _____ square feet as indicated in the enclosed site map, within the premises of the Hospital has been identified as the hospital site in respect of the _____ services referred to above.

Whereas in terms of the aforesaid Agreement executed, the Hospital Authority is required to hand over equipments, accessories as provided under Schedule 'B' of the Agreement to the above Concessionaire for running of services for _____ established by the Hospital Authorities through the selected vendor who has installed the equipments.

Now in keeping with the Agreement aforesaid, the right of occupancy of the space, details of which are indicated in the site map and the equipments and related accessories provided under Schedule 'B' is hereby handed over to _____ (the Concessionaire) on the following terms and conditions:

1. The ownership of the hospital site, the equipments and accessories remains with the _____ Hospital and the Concessionaire shall have only occupancy right to the hospital site and usage right for the equipments, accessories for running of the services of _____ till such date as the agreement executed between the Hospital Authority and the Concessionaire shall remain valid.
2. No encumbrance of any nature shall be created in the hospital site.
3. The occupant shall not do anything, which would be prejudicial to the soundness and safety of the property or reduce the value thereof.
4. The occupant shall not sell, transfer or rent out this hospital site and equipments, accessories etc for any purpose whatsoever and this site and equipments, accessories will be used exclusively for the _____ services by the Concessionaire, signatory to the agreement with the Hospital Authority.
5. The occupant shall comply with the requirement for proper care and maintenance of the equipments and related accessories handed over the Concessionaire for operation and management of the services under the scheme
6. The occupant shall in respect to the said hospital site, equipments and accessories be subject to the provision of the said agreement and shall comply strictly with the covenants, conditions and restrictions set forth in the agreement with the Hospital Authority.

7. The occupant shall vacate the hospital site, the equipments and accessories in absolutely good and working condition in the event of the termination of the agreement or at the end of four years whichever is earlier.

(Signature)

Date:

MSVP/Superintendent

_____ Hospital

Received the possession of the above mentioned hospital site on this day of _____ of _____ and solemnly declare that I shall abide by all the terms and conditions of the agreement as well as the terms mentioned in this certificate.

(Signature of Authorized Representative of the Concessionaire)

Date:

<Name of the Organization>

<Address of the Organization>

<Name of the Authorized Representative>

<Designation>

SCHEDULE 'B' OF THE AGREEMENT:

Particulars and Specifications as well as Features of the equipments and related equipments handed over to the Concessionaire for implementation of the scheme as per provisions of the Agreement

1. Haemodialysis Machine (DIAMAX): (nos. 5/10) and Technical Specifications for the Machine

Operational Requirement

- I. Machine should have facility for variable Sodium, Acetate, Bicarbonate, Regulated Ultra Filtration, Sequential Dialysis (Isolated UF)
- II. Upgradable to future software developments and can be linked with Patient Data Management System

- III. The blood pump should be able to run at least from 50 to 600ml/min and adaptable to standard A-V blood lines and should run even in the absence of water or dialysis flow.

Technical Specifications

- Should have facility for conventional dialysis
- Battery back-up for 20-30 minutes to run complete machine with heater supply
- Should have Na, Bicarbonate and UF profiling
- Dialysate temperatures selectable between 35°C to 39°C or wider
- Variable conductivity setting between 12.5 to 15 mS/cm or wider
- Should have variable dialysate flow at least 350-800 ml/min and should have increasing facility in steps
- Should have facility to show trends curve of all parameter for 15-20 minutes
- Heparin pump with adaptability of various sizes of syringes up to 50 ml with pump flow rate from 1-10 ml/hr(0.1 ml increments)
- Ultra filtration 0.1 to 2.5 litres/hr or more. The in and out fluid circuit must be separated so that there is no chance of contamination in the event of membrane rupture.
- Treatment parameter should be displayed by graph and digitally both
- Should have integrated heat and chemical disinfection facility with both short and long disinfection programme with day, night and week schedule
- Should have accurate feedback control conductivity mixing technique.
- Should have drain facility.
- Should have accurate UF control by flow by volume control measurement technique.
- Should have Blood Volume sensor.
- All important data should be pre-setted so that machine can be used anytime without feeding data every time
- Should have automatic self test facility
- Should have auto ON/OFF Facility
- Should have user friendly display system
- Machine can be connected to computer to feed all data and trouble shoot whenever any problem
- Blood pump rate at least from 30-500 ml/min or wider adaptable to standard A-V bloodlines
- Alarm for reverse Ultra filtration and also be able to do sequential dialysis
- On line in build NIBP recording

Alarms

- Audio visual alarms on limit violation of conductivity, blood leak, air leak, trans-membrane pressure, Dialysis temperature, Haemodialysis Completion, end of disinfection process, bypass and blood pump stop, dialysate empty.

System Configuration Accessories, spares and consumables

should disclose the free of cost accessory supply including dialyzer, tubing and Bacterial filters.

Environmental factors

- I. The unit shall be capable of being stored continuously in ambient temperature of 0 to 50°C and relative humidity of 15-90%

- II. The unit shall be capable of operating continuously in ambient temperature of 10 to 40°C and relative humidity of 15-90%

Power Supply

Power input to be 220-240VAC, 50Hz fitted with Indian plug

UPS of suitable rating with voltage regulation and spike protection for 60 minutes back up.

Standards, Safety and Training

- I. Should be US FDA / CE ("Conformité Européene") / UL / BIS/ **MOH Japan Certified**
- II. Manufacturer/Supplier should have ISO certification for quality standards.
- III. Should carry warranty of 1 (one) years.
- IV. Rate of CMC for next 7 years
- V. Supplier should have adequate experience and maintenance of similar equipment in at least 3 to 4 major hospitals.
- VI. Comprehensive training for lab staff and support services till familiarity with the system.
- VII. Should build local service facility with reasonable inventory to take care of the service part
- VIII. The service provider should have the necessary equipments recommended by the manufacturer to carry out preventive maintenance test as per guidelines provided in the service/maintenance manual.

Documentation

- I. User/Technical/Maintenance manuals to be supplied in English.
- II. Certificate of calibration and inspection.
- III. List of Equipments available for providing calibration and routine Preventive Maintenance Support as per manufacturer documentation in service/technical manual.
- IV. List of important spare parts and accessories with their part number and costing.
- V. Log book with instruction for daily, weekly, monthly and quarterly maintenance checklist.
The job description of the hospital technician and company service engineer should be clearly spelt out

Optional:

- Bicart Select technique and online clearance kT/V
- Automatic diagnosis of malfunctioning with on line ability to show the faults with trouble (Technical service Mode)
- Ability to monitor pulse rate and NIBP with graphic and tabulated trends.

2. Specification of Water Treatment Plant (WTP) with capacity 500 Litre/Hour post RO water

1. It should have capacity to produce 500 Litre/Hour post RO water.
2. Should be of Microprocessor based double pass RO system.
3. It should have Raw water tank (12000 litres capacity), Multi grade Filter, Iron removal, Charcoal (twin) Filter, softener, Reverse Osmosis, Ultra Violet Steriliser,

RO water Storage tank of 1500 litres (stainless steel with conicle bottom and heater to heat water up to 100 degree C with thermal insulation jacket & twin delivery pump (should be of stainless steel) etc. and should have internal plumbing for post RO water supply to each machine by Food grade PVC pipeline with character to sustain heat up to 93 degree centigrade for heat disinfection. (The pre-treatment and RO system should be fully automatic)

4. Should have pre RO micron filter for Bacterial protection.
5. It should have Rinse and Flush facility for the membranes in R.O. Unit.
6. It should have Conductivity meter, Pressure Gauge, Flow indicator.
7. There should be adjustments for output for water saving depending on the number of machines in use.
8. It should have Stainless Steel Connectors for Water Outlet at Dialysis machine connecting points.
9. The chemical, contaminants, endotoxin and microbial tests of post R.O. water should pass AAMI standards. The test should be done in every 6 (six) months intervals to ascertain the quality of water. The cost of performing the tests would be borne by the vendor.
10. The pipeline for RO water supply along with the connectors and the drainage pipe materials will be supplied by the RO vendor to the person responsible for the Turn key project of the Dialysis unit. The maintenance of the pipeline will be done by RO supplier.
11. Should carry warranty of 1 (one) year.
12. Rate of CMC for next term.

Optional:

- Should have display for supply and temperature of Permeate & for Raw Water.
- It should have fully automatic disinfection system.

Desirable Standard of the equipment:

- CE(*conformity européenne*)/ US FDA/ BIS standard
- for assembled component the quality standard would be as per approval of appropriate standard authority related to used component.

Warranty and CMC includes everything in Specification of the equipment and all accessories and ancillaries in Turn key

Specification of Water Treatment Plant (WTP) with capacity 250 Litre/Hour post RO water

1. It should have capacity to produce 250 Litre/Hour post RO water.
2. Should be of Microprocessor based double pass RO system.

3. It should have Raw water tank (6000 litres capacity), Multi grade Filter, Iron removal, Charcoal (twin) Filter, softener, Reverse Osmosis, Ultra Violet Steriliser, RO water Storage tank of 750 litres(stainless steel with conicle bottom and heater to heat water up to 100 degree C with thermal insulation jacket& twin delivery pump (should be of stainless steel) etc. and should have internal plumbing for post RO water supply to each machine by Food grade PVC pipeline with character to sustain heat up to 93 degree centigrade for heat disinfection. (The pre-treatment and RO system should be fully automatic)
4. Should have pre RO micron filter for Bacterial protection
5. It should have Rinse and Flush facility for the membranes in R.O. Unit
6. It should have Conductivity meter, Pressure Gauge, Flow indicator
7. There should be adjustments for output for water saving depending on the number of machines in use.
8. It should have Stainless Steel Connectors for Water Outlet at Dialysis machine connecting points.
9. The chemical, contaminants, endotoxin and microbial tests of post R.O. water should pass AAMI standards. The test should be done in every 6 (six) months intervals to ascertain the quality of water. The cost of performing the tests would be borne by the vendor.
10. The pipeline for RO water supply along with the connectors and the drainage pipe materials will be supplied by the RO vendor to the person responsible for the Turn key project of the Dialysis unit. The maintenance of the pipeline will be done by RO supplier.
11. Should carry warranty of 1 (one) year.
12. Rate of CMC for next term.

Optional:

- Should have display for supply and temperature of Permeate & for Raw Water
- It should have fully automatic disinfection system.

Desirable Standard of the equipment:

- CE(*conformité européenne*)/ US FDA/ BIS standard
- for assembled component the quality standard would be as per approval of appropriate standard authority related to used component.

**Note: Warranty and CMC includes everything in Specification of the equipment and all accessories and ancillaries in Turn key

3. List of Other items/accessories with details:

- a.
- b.
- c.
- d.

Schedule C

1. Rates / Prices for Dialysis Services (10 Bedded) at _____ Hospital

Rates / Prices applicable for patients of all Government Hospitals of the DoHFW, GoWB and are inclusive of GST

Investigations	Rates (in Rs)
Haemodialysis per sitting	Rs 700 (seven hundred only) in first sitting and Rs 500 (five hundred only) in subsequent sittings
Peritoneal dialysis	Rs 350 (three hundred fifty only) per sitting
Single Lumen Access	Rs 1100 (eleven hundred only) I) Rate for Single lumen catheter-Rs 450/- II) Rate for Dressing materials and other consumables-Rs 150 III) Procedure charges including Doctors fees-Rs 500/-
Rate for Double Lumen Access	Rs 2100 (Two Thousand one hundred only) I) Rate for Double lumen catheter-Rs 1105/- II) Rate for Dressing materials and other consumables-Rs 150 III) Procedure charges including Doctors fees-Rs 800/-

Rates of other services, if any, not covered above will be fixed on economy of scale

2. Rates / Prices for Dialysis Services (5 Bedded) at _____ Hospital

Rates / Prices applicable for patients of all Government Hospitals of the DoHFW, GoWB and are inclusive of GST

Investigations	Rates (in Rs)
Haemodialysis per sitting	Rs 500 (five hundred only) per sitting
Peritoneal dialysis	Rs 250 (two hundred fifty only) per sitting
Single Lumen Access	Rs 1100 (eleven hundred only) I) Rate for Single lumen catheter-Rs 450/- II) Rate for Dressing materials and other consumables-Rs 150 III) Procedure charges including Doctors fees-Rs 500/-
Rate for Double Lumen Access	Rs 2100 (Two Thousand one hundred only)

	<p>I) Rate for Double lumen catheter-Rs 1105/-</p> <p>II) Rate for Dressing materials and other consumables-Rs 150</p> <p>III) Procedure charges including Doctors fees-Rs 800/-</p>
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Rates of other services, if any, not covered above will be fixed on economy of scale

3. Rates of Dialysis Kit for PPP based Dialysis units patients of Government Hospitals of Department of Health & Family Welfare, Government of West Bengal

a- Dialysis Kit Module -A with AVF Needle @Rs1450/Kit (For cases where AV fistula is required, under supervision of specialist and trained doctors only.)

Serial No	Item	Quantity
1	Dialyzer	1
2	BTS	1
3	AVF	10
4	HEPARIN 25K I.U	2
5	DIALYSIS FLUID	2
6	10 ml SYRINGE	5
7	NS 1 Lit	5
8	IV SET	5
9	GLOVES (PAIR)	5

b- Dialysis Kit Module – B without AVF Needle @Rs1300/kit: (For cases where AV fistula not needed)

Serial No	Item	Quantity
1	Dialyzer	1
2	BTS	1
3	HEPARIN 25K I.U	2
4	DIALYSIS FLUID	2
5	10 ml SYRINGE	5
6	NS 1 Lit	5
7	IV SET	5
8	GLOVES (PAIR)	5

4. Records for procedure (Recommended manpower)

It is recommended to have the following minimum standards and staffing pattern for the Dialysis units

a. Medical Personnel

- i. Qualified Nephrologists performing one visit every fortnight and clinical review for all patients.
- ii. Medical Officers (on duty) – One doctor (MBBS or higher qualification) per shift for a maximum of 10 Machines and incremental thereof to two doctors for upto a 30 bedded unit. For units above 30 beds three doctors have to be appointed by the private service providers. The Medical officers should have experience in Dialysis procedures. Experience in central line access /critical care management is an optional criteria and desirable.

b. Technicians

- i. Each Dialysis unit should be manned by adequate number of qualified Dialysis Technician as per standard norms of Clinical establishment and as specified in the tender documents. One Technician should be placed for every 3 machines per shift and incremental thereof as per proposed bed capacity.
- ii. All technicians should have cleared examination conducted by State Medical Faculty and equivalent.

c. Attendants & other support staff

- i. All units should have adequate number of attendants for patient care and related jobs of which one attendant should mandatorily be a female to take care of female patient.
- ii. Other support man power- sweeper 1 for maximum 5 machines per shift.

NB;- For all those hospital where the service for all patients referred from any government hospital have been made totally free as per as per Memo No HFW/NHM-423/2016/3687 Date 29/11/2016 and operational guidelines vide Memo No HF/PPP/19/2016/752 Dated 29/11/2016 , vide order no 256-MS/HF/PPP/1/2018 dated Kolkata the 18th September, 2018 and G.O. No: H/TDE/73/HFW-14015 (99) / 1/ 2018 –SPSRC –Sec-Dept of H&FW, Dated 28.01.2019 the guidelines should be followed by the Hospital Authorities.

Schedule D

Pro-forma of Bank Guarantee/ Security Deposit

Form of unconditional Bank Guarantee for establishment operation and maintenance of Dialysis units at _____ Hospital, _____ District under Public Private Partnership (PPP) EOM mode by the Department of Health & Family Welfare, Government of West Bengal

Bank Guarantee Bond No.:

Amount of the Guarantee:

Guarantee amount covered from (date):

Last date of lodging of claim:

1. This Deed of Guarantee executed by _____ Bank, ----- (**Branch and complete address**) [hereinafter referred to as “**The Bank**”] in favour of MSVP/Superintendent of _____ Hospital, _____ (**address and District**) [hereinafter referred to as “**The Beneficiary**”] for an amount not exceeding Rs _____ (figures and words) at the request of _____ (**name and complete address of the private partner**) [hereinafter referred to as “**The Party**”]

2. This Guarantee is issued subject to the condition that the liability of The Bank under this Guarantee is limited to maximum of Rs _____ (figures and words) and the Guarantee shall remain in full force up to _____ (**last date 54 months (EOM) from the date of execution of this document**) and cannot be invoked otherwise than by a written demand or claim under this Guarantee served on The Bank on or before the last date of claim. In consideration of The MSVP/Superintendent/ BMOH of _____ Hospital, _____ (**address and District**) [“The Beneficiary”] having agreed to award a contract in favour of _____ (**name and complete address of the private partner**) [The Party] for establishment of Fair Price Dialysis Centre at _____ Hospital, _____ District under PPP mode vide Order no, _____ and as per the terms and conditions of the agreement between The MSVP/Superintendent/ BMOH of _____ and _____ (name of the private partner), The Party is required to furnish Performance Security in the form of Bank Guarantee for an amount of Rs _____ (figures and words)

3. We, The ----- Bank, _____ Branch _____ (address) do hereby undertake to pay a sum of Rs (figures and words) against breach by the said Party of any of the terms and conditions of the agreement between The MSVP/Superintendent of _____ Hospital, _____ and The Party.

4. Notwithstanding anything to the contrary, decision of “The Beneficiary” as to whether “The Party” has made any default or defaults and the amount or amounts to which “The Beneficiary” is entitled by reason thereof will be binding on “The Bank” and “The Bank” shall not be entitled to dispute such claim or claims or ask “The Beneficiary” to establish such claim or claims under this Guarantee and will pay the amount forthwith without any objection

5. We, The ----- Bank, _____ Branch _____ (address) do hereby undertake to pay the amount claimed to or would be caused to or suffered by “The Beneficiary” by reason of any breach by “The Party” of any of the terms and conditions contained in the said agreement or by reason of failure by “The Party” to perform the said agreement. However, the liability of “The Bank” under this Guarantee shall be restricted to an amount not exceeding Rs _____ (figures and words).

6. “The Bank” do hereby undertake not to revoke this Guarantee during its currency except with the previous consent of “The Beneficiary” in writing.

7. Notwithstanding anything contained hereinabove, the liability of “The Bank” under this Guarantee is restricted to an amount of Rs _____. This Guarantee shall remain in force upto _____ (**date, month and year**)

8. In case of extension of time for the Bank Guarantee, the same shall have to be extended at The Party’s cost.

9. The Bank shall have no obligation to go into the veracity of any demand made by the “Beneficiary” and shall pay the amount specified in the demand notwithstanding any directions to the contrary given or any dispute whatsoever raised by the “ The Party”.

10. It will not be necessary for the “Beneficiary” to move against the “The Party” first and the guarantor (Bank) will be treated as the principal debtor for the purpose.

11. Obligation of the guarantor (Bank) shall not be affected by any variations in the terms and conditions of the Agreement or other documents or by the extension of time for performance granted or postponement/ non exercise/ delayed exercise of any of its rights by the “Beneficiary” or any indulgence shown by the “Beneficiary” to the “The Party”.

12. This guarantee shall not be affected by any change in the constitution or winding up of the “The Party”/ the Guarantor (bank) or any absorption, merger or amalgamation of the “The Party”/ the Guarantor.

13. The guarantee amount is to be made payable at Kolkata.

Schedule E : Comprehensive Maintenance Contract (CMC) charges for the Dialysis Services with the manufacturer including Spares (Service taxes and other taxes including GST will be applicable as per govt rules from time to time over and above the CAMC charges as mentioned below)

Comprehensive maintenance contract with the manufactures including spare parts

- (i) The Purchaser/ Consignees/ Government of West Bengal, may, at his own and sole discretion enter into a Comprehensive Maintenance Contract (CMC) with the Supplier, three months prior to the completion of Warranty Period, at the contracted price, for a period as specified in the tender after the expiry of the warranty period as per the details given in clause 13 of GCC & SCC, provided that this service shall not relieve the Supplier of any warranty obligations under this Contract. Wherever the Technical Specifications lay down a different period of CMC, this latter period shall prevail. The CMC will commence from the date of expiry of Warranty period. The CMC includes preventive maintenance including testing & calibration as per technical/service/operational manual, labour and spares.
- (ii) The CMC includes repairs of entire system, preventive maintenance testing & calibration, labour and spares and all software updates.
- (iii) The Comprehensive Annual Maintenance and Repair charges (after Warranty period) shall be paid in equal quarterly instalments at the end of each quarter beginning from the date of completion of the Warranty, subject to satisfactory services rendered as specified in the bid document and the resultant contract, as per the rates quoted in the price schedule.

Details of CMC requirements or otherwise, as spelt out in the Technical Specifications, will prevail over those given in this section.

For both Warranty and CMC

- (i) The maximum response time for maintenance complaint from any of the destination specified in the Schedule of Requirements (i.e. time required for supplier's maintenance engineer to report at the site after a request call /E-mail /Fax/ telegram is made or letter is written) shall not exceed 24 hours.

During the Warranty and the CMC periods, the supplier will be required to guarantee that the equipment will be maintained in good working condition for a

minimum period of 354 days out of a period of 365 days. (i.e. 97% uptime). 8 hours non functioning of the equipment will be considered as one day down time. Essential period to shut down the installation entirely or partially shall also be included in the down time while calculating the 97% guaranteed uptime. This guaranteed uptime shall be calculated for each block of 365 days.

The Response time to any fault and penalty is as per the summary table.

- (ii) In case the equipment cannot be made functional within 3 days or 72 hours, the vendor has to make arrangement for an alternative. Maximum time allowable for correcting the fault would be 7 continuous days.
- (iii) In case equipment is not useable beyond the stipulated maximum down time the supplier will be required to arrange for an immediate replacement of the same till such time it is so required.
- (iv) Failure to arrange for the immediate repair / replacement of equipments will make the Supplier liable for a penalty as per the summary table.
- (v) The supplier shall visit each consignee site as recommended in the manufacturer's technical/ service operational manual, but at least once in three months during the CMC period for preventive maintenance.

Spare parts:

The Supplier may be required to provide any or all of the following materials, notifications, and information pertaining to spare parts manufactured or distributed by the Supplier:

- (a) such spare parts as will be required during the warranty and CMC period free of cost, providing that this election shall not relieve the Supplier of any warranty obligations under the Contract; and
- (b) In the event of termination of production of the spare parts:
 - (i) Advance notification to the Purchaser of the pending termination, in sufficient time to permit the Purchaser to procure needed requirements; and
- (iii) Following such termination, furnishing at no cost to the Purchaser, the blueprints, drawings and specifications of the spare parts, if requested.

CMC Charges for Haemodialysis Machines of 5 bedded & 10 bedded Dialysis Units Applicable GST and any other Taxes as per Govt norms are Extra and Chargeable over and above the CAMC Charges (Rates includes period of 1st Agreement)

SI No	Description	Qty.	Unit	Charges in INR for one machine
1	CMC Charges for year1 after completion of warranty of 1 year (Type: Services)	1	Number	0.00
2	CMC Charges for year2 after completion of warranty of 1 year (Type: Services)	1	Number	0.00
3	CMC Charges for year3 after completion of warranty of 1 year (Type: Services)	1	Number	22472.00
4	CMC Charges for year4 after completion of warranty of 1 year (Type: Services)	1	Number	22472.00
5	CMC Charges for year5 after completion of warranty of 1 year (Type: Services)	1	Number	22472.00
6	CMC Charges for year6 after completion of warranty of 1 year (Type: Services)	1	Number	22472.00
7	CMC Charges for year7 after completion of warranty of 1 year (Type: Services)	1	Number	22472.00

Charges for one machine as above has to be multiplied with the number of Machines installed for the Dialysis Services in the hospital for working out the total CMC charges.

CMC Charges For WTP (250 Litre/hr & 500 Litre/hr) Applicable GST and any other Taxes as per Govt norms are Extra and Chargeable over and above the CAMC Charges (Rates includes period of 1st Agreement)

SI No	Description	Qty	Unit	CMC Charges per unit in INR
1	CMC Charges for year1 after completion of warranty of 1 year	1	Number	205458.00
2	CMC Charges for year2 after completion of warranty of 1 year	1	Number	205458.00
3	CMC Charges for year3 after completion of warranty of 1 year	1	Number	205458.00
4	CMC Charges for year4 after completion of warranty of 1 year	1	Number	205458.00
5	CMC Charges for year5 after completion of warranty of 1 year	1	Number	205458.00
6	CMC Charges for year6 after completion of warranty of 1 year	1	Number	205459.00
7	CMC Charges for year7 after completion of warranty of 1 year	1	Number	205459.00

(Signature)

Date:

MSVP/Superintendent
_____ Hospital

Received the possession of the above mentioned equipments, accessories on this day of _____ of _____ and solemnly declare that I shall abide by all the terms and conditions of the agreement as well as the terms mentioned in this certificate.

(Signature of Authorized Representative of the Concessionaire)

(Signature)

Date:

MSVP/Superintendent
_____ Hospital

Received the possession of the above mentioned equipments, accessories on this day of _____ of _____ and solemnly declare that I shall abide by all the terms and conditions of the agreement as well as the terms mentioned in this certificate.

(Signature of Authorized Representative of the Concessionaire)

Date:

<Name of the Organization>

<Address of the Organization>

<Name of the Authorized Representative>

<Designation>

IN WITNESS WHEREOF the parties hereto of the first and second part have set and subscribed their respective hands and seals on the day, month and year first above written.

IN WITNESS WHEREOF the parties hereto of the first and second part have set and subscribed their respective hands and seals on the day, month and year first above written.

SIGNED SEALED AND DELIVERED

by the

**The MSVP / Superintendent of
_____ Hospital, -----**

**On behalf of the Department of Health
and Family Welfare, Government of
West Bengal.**

SIGNED SEALED AND

DELIVERED

**by the Authorized Representative of
The Private Partner _____**

SIGNED SEALED AND DELIVERED

by the

**The Member Secretary of Rogy Kalyan
Samity, _____ Hospital,**

on behalf of the Rogy Kalyan Samity,---

-----Hospital.

At -----

Witness:

1. _____

2. _____