



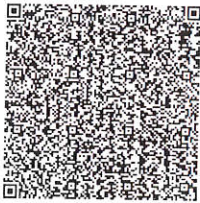
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INDIA NON JUDICIAL

Government of National Capital Territory of Delhi

e-Stamp

Certificate No.	: IN-DL60620542005095T
Certificate Issued Date	: 16-Mar-2021 06:24 PM
Account Reference	: IMPACC (IV)/ dl831103/ DELHI/ DL-DLH
Unique Doc. Reference	: SUBIN-DL83110322910523742074T
Purchased by	: ESCORTS HEART INSTITUTE AND RESEARCH CENTRE LTD
Description of Document	: Article 5 General Agreement
Property Description	: Not Applicable
Consideration Price (Rs.)	: 0 (Zero)
First Party	: ESCORTS HEART INSTITUTE AND RESEARCH CENTRE LTD
Second Party	: AS APPLICABLE
Stamp Duty Paid By	: ESCORTS HEART INSTITUTE AND RESEARCH CENTRE LTD
Stamp Duty Amount(Rs.)	: 100 (One Hundred only)



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FOOD AND BEVERAGES SERVICES AGREEMENT

This Food and Beverages Services Agreement ("Agreement") is executed at New Delhi on this 22nd day of March 2021 by and between

Escorts Heart Institute and Research Center Limited, a company incorporated under the laws of India and having its registered office at OPD City Centre, SCO-11, Sector-11-D, Chandigarh- 160 011, through its **Authorized Signatory**, (hereinafter referred to as "**First Party**") which expression shall unless repugnant to the context or meaning thereof include its successors and assigns) **OF THE FIRST PART;**

Statutory Alert

1. The authenticity of this Stamp certificate should be verified at 'www.shourestamp.com' or using e-Stamp Mobile App of Stock Holding. Any discrepancy in the details on this Certificate and as available on the website / Mobile App renders it invalid.
2. The onus of checking the legitimacy is on the users of the certificate.
3. In case of any discrepancy please inform the Competent Authority



AND

M/s Shou Restaurant Pvt. Limited a company incorporated under the laws of India and having its registered office at F-14/15, Middle Circle, Connaught Place, New Delhi-110001 through its authorized signatory, Mr. Sanjeev Goswami (hereinafter referred to as "Second Party" which expression shall unless repugnant to the context or meaning thereof include its successors and assigns) **OF THE SECOND PART.**

WHEREAS

- A. The First Party is engaged in the business of providing healthcare services and is running and operating a multispecialty hospital namely 'Fortis Escorts Heart Institute' at Okhla Road, New Delhi-110025 ("Hospital");
- B. The First Party is desirous of contracting facilitation services of **serving Food and Beverages to the patients and staff in the Hospital.**
- C. Second Party is engaged in the business of **providing Food and facility services to corporates** and has the requisite experience, competence and ability (both in terms of equipment and manpower) in providing food serving services in Hospitals and healthcare facilities;
- D. First Party is committed to provide quality healthcare services to patients and based on the representation made by the Second Party, First Party has approached Second Party to provide quality facilitation services in respect of serving food and beverages to the patient and the Second Party has agreed to provide the same based on the terms and conditions set out in this Agreement.
- E. The Parties hereto desire to record their representations, warranties, statements assurances, agreements, undertakings, indemnities and covenants on their part as also the terms and conditions of their agreement as under:

NOW THEREFORE, IN CONSIDERATION OF THE COVENANTS HEREIN CONTAINED, IT IS HEREBY AGREED BY AND BETWEEN THE PARTIES HERETO AS FOLLOWS:

1. DEFINITIONS

In this Agreement, the following terms shall have the following meanings assigned to them herein below:

"Affiliate" shall mean any person, company, corporation, association or other entity, which, directly or indirectly controls, is controlled by or is under common control off such person, company or corporation and where the person is an individual, the terms "Affiliate" shall include Relatives of such individual. 'Relatives' shall have the same meaning as ascribed to it in the Companies Act, 2013.

"Agreement" shall mean this Agreement entered into between parties and any revision or modification thereof setting out scope of work to be provided by the Second Party to First Party including attached schedules / annexures and addendums or letters that may be



exchanged between the Parties for inclusion of additional work as may be mutually agreed between the Parties.

"Applicable Laws" shall mean all laws, bye-laws, rules, regulations, orders, ordinances, circulars, notification, directions, judgments, decrees or other requirements or official directive of any governmental authority or department or persons acting under the Authority, in effect on the date of execution of the Agreement, or thereafter;

"Authority" means any national, regional or local government or governmental, administrative, fiscal, judicial quasi-judicial, or government-owned body, department, commission, authority, tribunal, agency or entity;

"Confidential Information" means any confidential or proprietary information, technical or business information either in writing, visual or electronic form disclosed by Disclosing Party to the Receiving Party or its Representatives on the date of this Agreement or thereafter and shall mean any and all information including without limitation information on the contents and existence of this Agreement, the business structure, business strategy, companies business and marketing policies, patient information, analyses, compilations, studies, financial dealings, financial data, operations, commercial strategies, processes, technical information, product information, clients and supplier information, medical records, previous and potential customers, end users, pricing information, goodwill and reputation, know-how, proprietary rights, intellectual property rights, designs, trade secrets, and market opportunities and other documents prepared by either Party or its Representatives which contain any Confidential Information; or under the circumstances, a person exercising reasonable business judgment would understand to be confidential or proprietary. The Disclosing Party shall use reasonable efforts to mark as "Confidential" or "Proprietary" any Confidential Information that is disclosed in documentary or tangible form under this Agreement. However, any failure to mark shall not affect the confidential status of confidential information;

Exceptions: The Receiving Party's obligations shall not apply to information which:

- (i) Party already controlled, possessed or developed, prior to receipt from the Company; or
- (ii) Was in the public knowledge at the time it was disclosed under the Agreement or becomes available to the public without breach of the Agreement; or
- (iii) The Party lawfully received without any such restrictions or obligations of confidentiality from a third party who in turn received such information legally and not in breach of any obligation of confidentiality;
- (iv) Is required to be disclosed by the Receiving Party under Applicable Laws, court orders or any order from a regulatory or governmental authority.

"Disclosing Party" shall mean the Party which discloses Confidential Information to the other Party arising out of or during the course of discharging obligations in terms of the Agreement.

"Effective date" shall mean **01st April 2021**.

"Facilitation Services" shall collectively mean and include following services:



- **Distribution of cooked food to patients as per the norms in terms of the Applicable Law.**
- **Distribution of beverages as per the instructions of the First Party**
- **Serving of all meals to the patients**
- **Shall include without limitation the acts, roles, responsibilities and services to be provided by the Second Party as contemplated in clause 3 hereof:**

"Force Majeure" shall mean any act of God, civil commotion, riot war, earthquake, fire, flood, explosions, terrorist activity or any notice, order or notification of the government, public body or any other statutory authority on which either Party has no control and is beyond the control of the Parties.

"Hospital Kitchen" shall mean the area at **Ground Floor** where food will be cooked/ prepared by Second Party to serve the same to patients and staff at the Hospital.

"Party" shall mean the First Party or the Second Party;

"Parties" shall jointly mean the First Party & the Second Party;

Interpretation

- (i) References to any document (including this Agreement) are references to that document as amended, consolidated, supplemented, novated or replaced from time to time.
- (ii) References in this Agreement to Articles, Clauses, Schedules and Annexures are references to articles, and clauses in and schedules and annexures to this Agreement. The Annexures or Schedules to this Agreement shall be deemed to form an integral part of this Agreement.
- (iii) Headings are inserted for convenience only and shall not affect the construction of this Agreement.

2. SCOPE OF THE AGREEMENT

- 2.1 During the Term hereof or the extended term as the case may be, Second Party shall render the Facilitation Services at the Hospital in accordance with the service level requirements and qualitative standards set out in **Annexure A** hereof. Second Party shall perform the said services of its own and to the complete and utmost satisfaction of the First Party and shall not engage a subcontractor without the express written consent of First Party for the performance of the said Services. Sub-Contractor, if engaged with consent of the First Party will not absolve the Second Party of its responsibilities and obligations under the Agreement in any manner.
- 2.2 Services shall be provided by Second Party in the Hospital in an uninterrupted and efficient manner by 24/7 and 365 days. First Party shall determine the Schedule and timings for rendering of the said Services and communicate it to Second Party in writing and Second Party and all its employees shall ensure strict adherence to schedule and timings. The

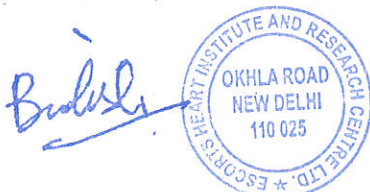


Second Party shall ensure requisite permission from Appropriate Authority as may be required for providing uninterrupted service as envisaged hereinabove.

- 2.3 Second Party shall take responsibility for assessing the requirements, planning the activities and implementing and monitoring the Services with its trained and qualified personnel. The Services shall be performed to ensure smooth and efficient functioning and provide service of excellence and quality to all patients, attendants and visitors and also to the Medical, Para-medical and support Staff.
- 2.4 It is agreed that the juridical and legal title and possession of the Hospital/ Cafeteria will always vest with the First Party. This Agreement is not, and shall not be considered as, a lease, sub-lease, tenancy or sub-tenancy of the Hospital and/or the land and/or buildings comprising the Hospital, or to confer any right, title or interest, whether legal, equitable or beneficial, in the Hospital and/or the land and/or buildings comprising the Hospital. Second Party shall not at any time claim any tenancy, sub-tenancy or any other right or title or interest in respect of the Hospital and/or the land and/or buildings comprising the Hospital under any law presently in force and/or any law which may be enacted hereafter.
- 2.5 It is agreed between the Parties that the Agreement shall be binding on the Parties from the date of its execution, however the obligations shall commence from the Effective Date.

3. OBLIGATIONS OF PARTIES

- 3.1 Second Party has agreed to perform the following services during the Term of this Agreement:
- i. To Provide Facilitation Services comprising serving of all meals, bed tea, breakfast, mid-morning juice/fruit, soup, lunch, evening tea and snacks, evening soup, dinner, post dinner milk or fruit, tea and snacks etc., for patients, conforming to the conforming to the specifications and the best quality standards on all days of the week round the clock for and in accordance with the requirements of the First Party.
 - ii. Provide at its sole cost and expense competent, experienced and trained team manpower for rendering the Facilitation Services as per the agreed requirements and prepare, collect and constantly update all personal data in respect of its team and make such data available to the First Party at regular intervals and as and when required.
 - iii. The personnel appointed by Second Party shall perform the Facilitation Service all the days of the month. In case any personnel are found not meeting the requirement, Second Party shall be obliged to replace him/her immediately. The number of personnel can be increased or decreased depending upon the exigency of work to ensure the services are efficiently managed at all times. The hiring, administration and payments to such manpower shall be to the sole account of the Second Party. Qualification and credential etc. will be as per the common yardstick/ Standard Operating Procedures (SOP) as applicable in the Unit/Hospital of the First Party following complete hierarchy as envisaged in the relevant SOP.
 - iv. The Hospital administration shall have right to oversee the quality and patient satisfaction issues. Further dietician shall have a right to keep a check on hygiene in the Hospital Kitchen and of its staff.



- v. Maintain in proper condition, all food service furniture, fixtures, and equipment provided by First Party (as detailed in Annexure-C) and used by the Second Party (normal wear & tear excepted);
- vi. With the exception of items that may need replacement due to ordinary wear and tear or damage resulting from the negligence of First Party, Second Party shall replace, at its own expense, all lost or broken fixtures, equipment and property provided to it by First Party with new items of equal quality and mutually agreed depreciated value.
- vii. Maintain proper sanitation and cleanliness in food handling, receiving, storage, and delivery of food service and to ensure the total hygiene conditions are maintained as per HACCP Standards. All service area and utensils, crockery, cutlery, tableware and surfaces should be cleaned and sanitized after every use.
- viii. Provide the Facilitation Services in a competent, efficient and uninterrupted manner and follow all hygiene and quality service standards in rendering the Facilitation Services in accordance with Applicable Laws and **Annexure A** hereof. Good hygienic practices like hand washing, personal habits should be taught and supervised.
- ix. The Second Party's supervisors shall maintain a daily awareness of the health of individuals and in specific areas paying particular attention to the signs and symptoms of communicable diseases that can be transmitted by food and beverage products. If an employee is suffering from gastrointestinal illness, boils, infected wounds etc., he shall be temporarily removed of his duties till cured.
- x. When a food borne illness is suspected the HICC (Hospital Infection Control Committee) be notified, the microbiology department should obtain specimens from the symptomatic individuals and suspected food to establish the point source of epidemic. The HICC is responsible for investigation the suspected food borne outbreak the illness.
- xi. If First Party reasonably believes that the Second Party is failing to carry out in any manner the said Facilitation Services in accordance with this Agreement, then First Party may order Second Party to stop the said Facilitation Services forthwith until such time as the cause for such stop order has been eliminated. The First Party may, without prejudice to any other rights or remedy ensure removal / rectification of deficiencies made good by other, may deduct the cost thereof from the payment then or thereafter due to the Second Party after mutual discussion with the Second Party.
- xii. The First Party or any officer so authorized by it for the purpose shall be at liberty to carry out any surprise check on Second Party's work to ensure adherence to quality of service as per the agreed specifications. First Party shall ensure that the Second Party's work schedule is not disturbed due to such surprise checks.
- xiii. Second Party shall ensure prompt action and effective communications and shall appoint a Coordinator and Shift supervisor for coordinating day to day operations. Such person shall be provided with a mobile phone for effective communication.



- xiv. Second Party shall be responsible for getting a police verification done of all its employees and staff engaged for the Facilitation services, within 1 month of joining for local candidates and 3 months for outstation candidates. However, the verification exercise is to be done by the police. Therefore, the Second Party shall not be liable for any delay in the verification by the police. All verification procedural records to be available. Second Party shall be responsible and liable for any loss suffered by First Party on account of negligence, vandalism misconduct, misappropriation, and theft or otherwise by its employees/staff. Second Party to compensate First Party for any loss/damage suffered on this account. Records for the same to be made available by Second Party on request to First Party.
- xv. The Second Party shall be required to meet the required quality and safety standards in terms of manpower training and delivery of Facilitation Services by playing a proactive role in all Quality & Safety programme /initiatives which the First Party may undertake from time to time during the period of the agreement. Additionally, the Second Party shall adhere to the Accreditation standards of the National Accreditation Board for Hospitals & Healthcare Providers (NABH) as maybe applicable to the First Party from time to time.
- xvi. Change in the scope of any of the activities/functions referred to the above will always be done through mutual negotiation between the First Party and the Second Party and implemented after appropriate lead time.
- xvii. In case of any industrial unrest including strikes / agitations, the Second Party shall discharge all the responsibilities by make alternative arrangements as may be required, in consultation with the First Party to ensure that the patient care is not affected by such situation.
- xviii. Second Party shall provide, at all times, adequate and expert managerial and administrative supervision for its employees. The Food Facilitation Services Manager of the Second Party shall coordinate all activities connected with the provision of Facilitation Services and shall meet with the assigned First Party representative(s) on a need basis to coordinate enforcement of First Party policy, the implementation of suggestions and requests, and the prompt resolution of complaints. It will be the responsibility of Second Party to respond, in writing if so requested, to inquiries, requests for change, and recommendations on priority basis.
- xix. The Second Party shall further ensure that their personnel are immunized at regular intervals at the cost of First Party and are protected from acquiring any disease in the hospital and immunization cards are periodically handed over to the First Party. Hepatitis A, Hepatitis B and typhoid vaccine are to be done with first fortnight of joining and schedule for doses is adhered to.

Screening of food handlers shall be done as per Central Infection Control Policy. Second party shall get a medical examination of all its employees at its cost with medical tests for Chest X-ray, Complete Haemogram (Hb,TLC,DLC, ESR), Urine Round & Microscopic, Stool-Routine, Microscopic & Aerobic (for salmonella, staph & cholera and submit a fitness to work in the Hospital at the time of recruitment.



First party shall, however bear the costs of any additional tests as recommended by HICC and the said stool tests done at every six monthly intervals. It is the sole duty and responsibility of the Second Party that their personnel get all the above medical tests done timely; the second party shall be debited with a sum of **Rs.100/-** only.

- xx. The Second Party shall at its own cost and expense obtain necessary permissions, approvals and clearances (including but not limited to licenses/registrations required under the), from the governmental/regulatory authorities or third parties, Contract Labour (Regulation and Abolition) Act etc. The Second Party shall ensure that such permission, approvals and clearances are valid and subsisting during the entire tenure of this Agreement and all regulations, Applicable Laws are duly complied with at all times. The Second Party shall comply with all existing laws and regulations which may be applicable to the Second Party for performance of the Facilitation Services.
- xxi. The Second Party shall keep and maintain all records/registers as required under any applicable legislation with respect to all employees engaged/deputed by the Second Party at the premises of the First Party for performing the Facilitation Services as envisaged in the Agreement.
- xxii. The Second Party shall be responsible for any injury / accident to persons employed / deployed by it at the premises of the First Party or suffered by any third party including visitors, patient, staff which is attributable to any act or omission of the Second Party. The First Party shall not be held liable for the same in any manner whatsoever. The Second Party will be held responsible for damages / losses and theft to the fittings, fixtures, equipment and the property of the Patients, visitors, staff or the First Party arising due to the negligence act or omission on part of the Second Party or its employees, staff or labor or improper implementation of processes, procedures and systems. All the said losses and damages shall be recovered forthwith from the Second Party. The First Party shall also be entitled to claim damages for loss of reputation on accord of the Facilitation services provided / to be provided and / or the conduct / behavior or any action of the employee(s) staff, representatives of the Second Party.
- xxiii. Respective Facilitation Services will be requisitioned through First Party representatives Dietician for patients as per requirement through a software based application common across the hospitals. All records to be maintained for audit etc.
- xxiv. All billing on daily basis done on actual count of major meals of the day (Breakfast, Lunch and Dinner).
- The basic 3 meal calculations will be followed for meal calculations
 - (B/F + Lunch + Dinner)/3* Price. Including liquid meals (3 liquids will be calculated as one Major meal)
- xxv. The decision of First Party with regard to determining of quality of work / service in terms of patient meals, in-patient attendants meals, staff meal & tea/coffee services for First Party's employees and its contract labour, conferences, meetings and seminars, shall be final. In case there is a complaint about food or service the cost of the food produced will be deducted at 100% or the service will be re ordered



to the satisfaction of the concerned party (patient, attendant, guest, First Party's employee). In case there is non-availability of item from the listed menu unless out of season or market condition, a penalty of minimum Rs.1,000/- will be imposed. The First Party reserves the right either to get the deficiency removed at the cost of Second Party and /or deduct such amount from the monthly services charges bill for the deficient services as may be determined by the First Party.

- xxvi. The Second Party shall issue photo identity cards to all its employees bearing their individual photograph within 7 days from the Effective Date, for the number of personnel engaged/present in a month, Second Party shall ensure that such personnel get their attendance duly recorded and verified in the office of F&B Supervisor / Manager).

FIRST PARTY OBLIGATIONS:

3.1 First Party agrees to perform the following activities during the Term of the Agreement:

- (i) To make available toilet, shower, locker and changing facilities for the Second party's employees, agents and/or Second Party's;
- (ii) Will provide to the Second Party such access to those parts of the Site/s at such time as is necessary to enable the Second Party to effectively and efficiently provide the Facilitation Services.
- (iii) Provide the Space for use and occupation to run the kitchen
- (iv) Electricity, Power backup.
- (v) Centralize suction, drainage, air conditioning, water supply, and electricity.

4. OBLIGATIONS OF SECOND PARTY IN RESPECT OF ITS PERSONNEL ENGAGED IN PROVIDING THE SERVICES

- I. The Parties agree that this Agreement is in the nature of a service contract where Services are being provided by the Second Party in accordance with the agreed quality parameters and standards. In this regard, the Second Party agrees and undertakes to employ in its employment trained personnel (as per prescribed competencies) required to provide the said Services. Such employees shall at all times remain and be construed to be the employees of Second Party alone. There shall be no employee-employer relationship between First Party and the employees engaged/deployed by Second Party and shall not be considered to be the principal employer of the First Party. First Party shall not be held responsible for any non-payment on part of Second Party. Second Party undertakes to indemnify First Party in this respect should any claim for payment arise against First Party.
- II. The Supervisory, disciplinary and administrative control over the personnel employed and the manner and mode of work of the said Services to be provided/rendered shall be of Second Party alone. But in case of any deficiency in services is noticed or that job carried out and services rendered are not in accordance with the specifications laid down in



Annexure A or up to the expected standards envisaging the requirements of a First Party, First Party shall always be within its rights to get the deficiencies removed at its cost and set off such cost against payment that may be due to the Second Party in terms of this Agreement.

- III. Second Party shall ensure that their personnel are trained as per the requirement of the Hospital for providing required services.
- IV. The employees of Second Party shall in no case be entitled to any benefit, monetary or otherwise, which may be permissible for the regular employees of First Party nor would they be entitled to raise any dispute, demand or claim in this regard or otherwise against First Party by virtue of this agreement. All disputes between Second Party and its personnel shall have no bearing on First Party and First Party will not be concerned about the same. Second Party shall indemnify First Party in the event any liability is foisted on the First Party for any reason.
- V. Second Party agrees that it is liable and responsible for and undertakes to pay wages not less than the minimum wages, allowances, and other benefits due and payable under the various Applicable Laws to the personnel employed by Second Party for the said services. The Minimum Wages Act notifications/revisions relating to minimum wages issued from time to time will be duly complied without fail by the Second Party.
- VI. First Party shall be entitled to depute its representative to be present at the time of disbursement of wages who shall also sign the Register of Wages-cum-Muster Roll as may be maintained by Second Party. Second Party undertakes that First Party will not be responsible for payment of any dues to the employees and would not be construed as having any employment relationship with employees of Second Party by virtue of mere presence/by putting up their signatures at the time of disbursements of wages.
- VII. It is specifically agreed that First Party or its representative may require any additional facilitation services or variations in the time and manner the service is performed and agree with the service provider on the amount deductible/ payable for such variations, from time to time. Further, both parties shall at the end of each month perform a joint assessment of quality of facilitation services delivered, compliance with the various SLA and KPI's as well as the extra costs incurred by the service provider due to any specific drive or directive issued by First Party. Basis such assessment, both parties shall decide the final amount payable for the month. However, in case of any difference in opinion with regard to final amount payable, the decision of the Facility Head shall be final and binding on both parties.
- VIII. The personnel of Second Party shall not be entitled to any amenities at the Hospital.

5. **PAYMENT AND PENALTY**

- 5.1 In consideration for the provision of Services by the Second Party, Second Party shall be paid as per **Annexure-B** on a fortnightly basis subject Second Party meeting and all service level and quality standards. In case of any deficiency of services by Second Party, First Party shall entitled to levy penalty the extent of the deficiency as determined by First Party and as defined in the **SLA of Annexure A enclosed**.
- 5.2 Second Party shall on every 1st & 16th of every month submit the bill for the Services rendered by it during the preceding period as per Annexure B. First Party shall arrange to



make payment for invoice subject to any deduction on account of any deficiency in services, within **Seven (7)** days of the receipt of the invoice. Second Party shall ensure that the bills providing complete details and supporting documents are attached with the invoice along with PF Challan and ESI Challan in respect of all its personnel. Second Party shall solely be responsible for all payments to its personnel and employees in accordance with the statutory laws and legislations.

- 5.3 Second party confirms and undertakes to be solely liable and responsible for issuing ESI Cards, PF Account numbers and monthly salary slips to all the personnel employed by Second Party within two months of joining and in case of **failure / non-compliance**, a **penalty of Rs.50/- per person** shall be levied on the Second Party.
- 5.4 Second party shall also ensure that all the salaries / wages are being paid by the Second Party to all their staff by 07th of every month, and in case of delay payment, the same shall attract a **penalty of Rs.5000/- (Rupees Five thousand only)**.
- 5.5 Second Party shall ensure that all the statutory compliances are being completed / treated within the time limit as specified by the governing laws, and hence any delayed submission of the same shall attract a **penalty of Rs.3000/- (Rupees Three thousand only)** or penalty as defined under relevant labour law (whichever is higher) for each **non-compliance** from the total amount of the billed invoice.
- 5.6 In consideration to the services provided by the Second Party, a fortnightly bill shall be raised based on actual services and the payment shall be made as per the actual services provided in that particular month. These charges are as on date. Any Govt. revision, will be approved by both parties and as agreed revised bills there on shall be submitted.
- 5.7 However the breakage cost shall be borne by the second party solely based on the monthly inventory.

6. QUALITY STANDARDS

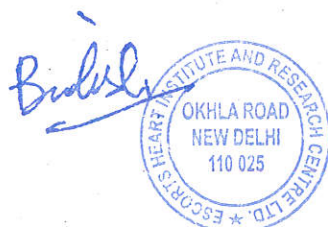
- 6.1 Second Party shall execute all the Services and maintain such numbers of persons as are required for the purpose of execution of Services in terms of this Agreement in a timely and qualitative manner in accordance with the service level and quality standards set out in **Annexure A**.
- 6.2 First Party reserves the right to have designated representatives review, inspect and evaluate the operation and condition of the Services with respect to the quality, the methods of service, the hours, safety, sanitation, and maintenance of the areas where the services are provided. In case the quality of service is not found to the desired standards and specifications in terms of Annexure A, action as deemed fit will be taken against Second Party. First Party or any officer so authorized by it for the purpose shall be at liberty to carry out any surprise checks on Second Party's work to ensure adherence to quality of services as per specifications. The decision of First Party with regard to determining of quality of work/service in terms of the specifications provided by First Party shall be final. First Party reserves the right either to get the deficiency removed at the cost of Second Party and/or deduct such amount from the monthly service charges bill for the deficient services as may be determined by First Party or to terminate the Agreement in accordance with the terms hereof.



- 6.3 If the Second Party does not provide Facilitation Services in accordance with this Agreement, it is clearly understood that the First Party will suffer damages. It being impractical and infeasible to determine the amount of actual damage, Second Party undertakes to pay to the First Party as fixed and liquidated damages as calculated and agreed by Joint Committee appointed by both the Parties. This amount shall be in addition to any payments due to or to become due to the First Party

7. INDEMNITY AND LIABILITY OF SECOND PARTY

- 7.1 Second Party shall be responsible for any injury/accident to persons employed/deployed/engaged by it at the premises of First Party and for any loss or damage cause by improper usage of infrastructure and assets provided by First Party. Second Party will be responsible for damages/losses to the fittings, fixtures, equipment and the property of First Party arising due to the negligence on part of Second Party or its employees, improper implementation of processes, procedures and systems.
- 7.2 Second Party shall keep and hold First Party, its, shareholders, directors and officers, employees, or any such person indemnified and harmless from and against any losses, damages, liabilities, expenses (including reasonable attorneys' fees), costs, and charges of any kind whatsoever, resulting from any third party claims, suits, demands, actions, proceedings, judgments, assessments, against First Party occasioned by, arising out of or resulting from:
- (i) any breach of the terms of this Agreement by Second Party or its representatives including but not limited to breach of representations and warranties;
 - (ii) claims by third parties, including on account of injury, damage or illness directly arising from the provision of Facilitation Services.
 - (iii) any claims against First Party arising from any negligent act or omission of Second Party or Second Party's employees, agents or contractors;
 - (iv) Any non-compliance of statutory license and approval;
 - (v) Any dispute between Second Party and their sub- contractor.
- 7.3 All the said losses and damages shall be recovered forthwith from Second Party at the option of the First Party through the amounts payable to the Second Party or taking normal recourse of law for recovery of the same.
- 7.4 This indemnity shall survive the termination or expiry of this Agreement.
- ## 8. TERM & TERMINATION
- 8.1 This Agreement shall be valid and binding between the Parties commencing on the Effective Date and subject to Article 8.2, shall remain in force from the Effective Date till **31st March 2023 ("Term")**. This Term may be extended further by the Parties at mutually accepted terms in writing,
- 8.2 Notwithstanding anything contained in Article 8.1 above, this Agreement may be terminated:
- (i) by First Party forthwith upon written notice to the Second Party in the event of a material breach of the provisions, including without limitation the representations and warranties of the Second Party of this Agreement ("**Breaching Party**"), which



breach has not been remedied by the Breaching Party within 21 days of receipt of written notice requiring remedy of the such breach;

- (ii) by either Party forthwith upon written notice to the other Party, if any proceedings under any law relating to insolvency are commenced against the other Party or if any Party makes an application under any such law for being adjudged/declared an insolvent;
- (iii) By First Party upon one month prior written notice to the Second Party without assigning any reason.

8.3 The right of either Party to terminate this Agreement will be in addition to any other remedies it may have. All remedies to either Party under this Agreement are cumulative and not alternative and may be enforced successively or concurrently.

8.4 Expiry/termination of this Agreement will be without prejudice to any rights that either Party may have accrued against the other prior to termination.

9. CONSEQUENCES OF TERMINATION

9.1 Upon the termination of this Agreement, the Parties shall immediately return all confidential material and information that may have been made available to each other during the Term.

9.2 All payments becoming due and payable to the Parties as on the date of termination, under the terms of this Agreement shall continue to be due and payable to the Parties notwithstanding the termination hereof subject to adjustment for on account of deficiency of Facilitation Services as determined by the First Party.

9.3 Second Party and its employees shall cease to perform the Facilitation Services and remove all their articles, equipment, consumables and fixtures from the Hospitals forthwith upon termination. Further, Second Party undertakes to restore the space in same condition (reasonable wear and tear accepted) as it was made available to the Second Party by the First Party.

9.4 Second Party shall be liable and responsible to make all statutory payments to its staff and personnel and fulfill all other statutory obligation and liabilities and obtain suitable discharge in favor of First Party so that no liability or obligation develops on First Party from the amount due to be paid to First Party.

9.5 Second Party shall not to use the Fortis name and logo for any of its facilities or ventures.

10. CONFIDENTIAL INFORMATION

(a) Each Party shall keep secret all Confidential Information, disclosed orally or in writing or in any electronic form, transmitted to it or made available to it by the Disclosing Party to the Receiving Party during the course of rendering/receiving services in terms of the Agreement and shall not disclose, divulge, misuse, exploit or pass such Confidential Information on, wholly or partly, to third parties without express written consent of the other Party.

(b) The Parties shall not disclose the terms of the Agreement or make any announcement in respect of the subject matter of the Agreement without prior written consent of the other

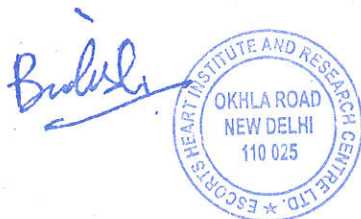


Party unless the disclosure is required by law or other regulatory authorities. In the event disclosure is required by law, rules or regulations, such disclosure shall be made (a) after the Disclosing Party has taken reasonable steps to consult with the other Party as to the terms of the disclosure prior to the same; (b) only to the extent necessary by such law, rule or regulation; and (c) only to the person or persons and in the manner required by law, rule or regulations or otherwise as agreed by the Parties.

- (c) Each of the Parties shall disclose the Confidential Information of the other Party only to such of its own employees as is required on a 'need to know basis'; restricted to a minimum number as shall require the information to accomplish the purpose of the Agreement, and shall treat such Confidential Information with the same degree of care as it uses to protect its own Confidential Information of like importance, but not less than a reasonable degree of care under the circumstances. The Receiving Party of the Confidential Information shall fully assume responsibility for any breach or non-fulfilment of the obligations in the Agreement by any person to whom access to the Disclosing Party's Confidential Information is granted and shall fully indemnify and keep harmless the Disclosing Party for any losses, damages, claims or fees arising from such breach or non-fulfillment.
- (d) All Confidential Information disclosed shall be and shall remain the property of the disclosing Party. On being requested in writing by the Disclosing Party, the Receiving Party shall return or destroy all documents thereof, furnished to the Receiving Party by the Disclosing Party. Any Confidential Information that is not returned or destroyed shall remain subject to the confidentiality obligations set forth in the Agreement for the confidentiality term and survival period.

11. LEGAL COMPLIANCE

- 11.1 Second Party shall apply for, obtain and pay for any and all required permissions, permits, approvals, certificates, licenses and/or registrations (in its own name or in the name of First Party as may be required) as necessary under Applicable Laws for the proper execution and provision of the obligations envisaged herein. Second Party shall provide / display copies of all the valid permissions, permits, approvals, and certificates, licenses as and when required by First Party from time to time and shall keep in full force and effect all licenses, approvals and regularizations during the entire Term of the Agreement.
- 11.2 Second Party shall apply for, obtain and pay for any and all required permissions, permits, approvals, certificates, licenses and inspections necessary for the proper execution and provision of the said Services. Second Party specifically agrees to obtain a license under the Contract Labour (Regulations and Abolition) Act, 1970, enabling it to render the said Services and undertakes to ensure its validity during the term of this Agreement.
- 11.3 Second Party agrees that it is liable and responsible for all compliances under relevant labour legislation and undertakes to pay all statutory payments, contributions, taxes, fees, levies, etc as may be due and payable under various laws including but not limiting to Industrial Dispute Act, The Provident Fund Act, the Payment of Bonus Act, The Payment of Gratuity Act, the Contract Labour (R&A) Act, 1970 the Payment of Wages Act, The Minimum Wages Act, Employees State Insurance Act, Maternity Benefit Act and that in no case shall First Party be liable or required to make any payment either to any government authority or any person in connection with the employment of personnel by Second Party in connection with the said Services



- 11.4 It is understood that First Party shall stand fully indemnified by Second Party in respect of any claim or liability arising in respect of the labour or any employee engaged by Second Party. Second Party will defend First Party, its affiliates, officers, directors and employees against any cost, expenses or liability directly or indirectly arising out of or relating to any claim not only on account of wages or otherwise but also any third party claims brought against First Party because of negligence or fault or labour or employees of Second Party, whether on account of wages or otherwise, including the labour or employees engaged through the sub-contractor (s) of Second Party.
- 11.5 Second Party including their sub-contractors (if approved by First Party in writing) shall maintain all the prescribed registers under the various statutes and produce them for inspection as and when required by First Party or by any authority under these statutes. Second Party including their sub-contractor shall maintain leave register, attendance register, wages register, register of persons, register of deduction, fines, overtime, advances etc and all other registers as required and regularly submit Xerox copies of these registers to First Party and will hand over the originals of the same on termination/expiry of the Agreement.
- 11.6 Second Party shall be responsible for all notices received from any authority, undertake all registrations and comply with all Applicable Laws. Second Party specifically agrees to file the return of commencement of contract/completion of contract; half yearly returns, annual returns and such other returns as may be prescribed under the Contract Labour (Regulation and Abolition) Act, 1970.
- 11.7 Second Party shall as and when required by First Party deliver to First Party all documents, things or other evidence which may be required to establish the compliance by Second Party and its subcontractor with all Applicable Laws and shall always be open to audit and/or inspection of itself or its agents and/or associates, by First Party. First Party is entitled by itself or through its agents to carry out the audit of Second Party and/or inspection as specified hereinabove on a monthly or quarterly basis, as it may find reasonable.
- 11.8 Second Party shall during the term of this agreement ensure that all personnel being deputed by him at the Hospital shall be covered under the applicable provisions of Employee State Insurance Act and provide an undertaking to first party to this effect. It is agreed in case any of the personnel is not covered under the applicable provisions of Employee State Insurance Act, Second Party shall purchase and maintain such insurance as required to protect it from claims by personnel employed directly or indirectly by Second Party in connection with the said Services or by anyone for whose acts any of them may be liable including but not limited to claims for damages because of bodily injury, disability benefit, occupational sickness or disease, or death of its employees. Second Party shall provide First Party with copies of current insurance or other appropriate insurance certificates

12. REPRESENTATION AND WARRANTIES

Second Party has represented that:

- (a) it is a firm validly existing under the laws of India;
- (b) it has the full right, power and authority and has taken actions necessary to execute and deliver, and to perform its obligations under the Agreement. Agreement when executed



will constitute valid and legally binding obligations on the Second Party, enforceable in accordance with its terms;

- (c) the Agreement does not violate or conflict with any provision of the constitutional documents, including the memorandum and articles of association of Second Party as the case may be;
- (d) the execution and performance of the Agreement does not and shall not conflict with provisions of any existing agreement with any party or violate any Applicable Laws;
- (e) has taken all the requisite consents, permission and approvals to perform its obligations under the Agreement;
- (f) It shall not engage the services of any third party or sub-contractor without prior written consent of First Party. If allowed by First Party the responsibility in all respects will still remain with the Second Party;
- (g) it shall maintain such numbers of persons as are required for the purpose of Facilitation Services in terms of the Agreement in a timely and qualitative manner in accordance with the quality standards as may be agreed by the Parties in the Agreement.

13. **EQUITABLE RELIEF**

Without prejudice to any other rights or remedies that the Parties may have, the Parties agree and acknowledge that damages may not be an adequate remedy for a breach of any of the provisions of the Agreement hence each Party shall be entitled to an injunction, restraining order, right for recovery, suit for specific performance, or such other equitable relief as a court of competent jurisdiction may deem necessary or appropriate to restrain the other Party from committing any violation or enforce the performance of the covenants, obligations and representations contained in the Agreement. These injunctive remedies are cumulative and are in addition to any other rights and remedies the Parties may have at law or in equity, including without limitation, a right for recovery of the amounts due under the Agreement and related costs and a right for damages.

14. **FORCE MAJEURE**

If the performance by either Party, of any of its obligations under the Agreement is prevented, restricted or interfered with by reason of Force Majeure, then such Party shall be excused from such performance to the extent of such prevention, restriction or interference provided that:

- (a) the Party claiming Force Majeure shall give prompt notice to the other Party within a period of seven (7) days from the date of the Force Majeure occurrence providing a description of such Force Majeure, including a description, in reasonable detail, of the cause of the Force Majeure; and
- (b) the Party claiming Force Majeure shall use reasonable efforts to avoid or remove cause of non-performance and shall continue performance hereunder as soon as Force Majeure ceases.



15. ASSIGNMENT

Neither Party may assign, voluntarily or by operation of law, any of its rights or obligations under this Agreement without the prior written consent of the other Party; provided that First Party may assign its rights and obligations under this Agreement to an Affiliate, associate or subsidiary. Subject to the foregoing, the Agreement shall be binding on the Parties and their respective successors and assigns.

16. DELAY AND WAIVER

No delay on the part of the Parties in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any waiver on the part of the Parties of any right, power or privilege hereunder, nor shall any single or partial exercise of any right, power or privilege hereunder preclude any other right, power or privilege hereunder. The rights and remedies herein provided are cumulative and are not exclusive of any rights or remedies which the parties hereto may otherwise have at law or in equity.

No waiver by the Second Party of breach of any covenant, obligation or provision in the Agreement contained or implied shall operate as a waiver of another breach of the same or of any other covenant obligation or provision in the Agreement contained or implied in the Agreement.

17. SEVERABILITY

If any provision of the Agreement, including any phrase, sentence, clause or sub clause of the Agreement is invalid, inoperative or unenforceable for any reason, such circumstances shall not have the effect of rendering such provision in question invalid, inoperative or unenforceable in any other case or circumstance, or of rendering any other provision herein contained invalid, inoperative, or unenforceable.

18. RELATIONSHIP

The relationship between parties in the performance of this Agreement shall be on principal-to-principal basis. No provision of this Agreement shall be deemed to constitute a partnership or joint venture between the Parties.

No provision of this Agreement shall constitute either Party as the legal representative or agent of the other, nor shall either Party have the right or authority to assume, create or incur any liability or any obligation of any kind, express or implied, against or in the name of or on behalf of the other Party except as provided expressly under this Agreement.

19. SURVIVAL

In addition to any provision under the Agreement which contemplates performance or observance subsequent to any termination or expiration of Agreement, including, without limitation, the provisions relating to Confidentiality Indemnification, Limitations on Liability, Termination, Dispute Resolution, Governing Law, Jurisdiction and Intellectual Property Rights shall survive expiration or termination of this Agreement.



20. LIMITATION OF LIABILITY

Either Party shall not be liable for special, indirect, consequential or punitive damages including loss of profit and/or revenue arising out of, in connection with, or relating to the Agreement regardless of the legal theory advanced or of any notice given as to the likelihood of such damages.

21. NO UNFAIR PRACTICES

Neither Party shall engage, abet, solicit or induce the other Party to engage in corrupt, unfair, fraudulent or other such practices (including anti-competitive). Nothing in this Agreement shall require First Party to perform services which may cause it to breach any regulatory rules or guidelines.

22. GOVERNING LAW AND DISPUTE RESOLUTION

This Agreement shall be governed by and construed and enforced in accordance with the laws of India.

Any dispute or difference between the Parties shall be referred to arbitration by sole arbitrator to be appointed by the mutual consent of the Parties. If the parties are not able to agree on sole arbitrator within thirty (30) days after the filing of the request for arbitration, then either Party may take steps for appointment of arbitrator under the Arbitration and Conciliation Act, 1996. The Arbitrator's award shall be final and binding on the Parties to the Agreement. The arbitration agreement and the proceeding there under shall be in accordance with the Indian Arbitration and Conciliation Act, 1996 as amended from time to time. The seat and venue of arbitration shall be New Delhi.

23. JURISDICTION

Subject to provisions of Clause 22 above, the Parties irrevocably agree that the Courts in Delhi shall have exclusive jurisdiction on any matter arising out of this Agreement. The Second Party hereby irrevocably waives any objection to the jurisdiction, process and venue of any such court and to the effectiveness, execution and enforcement of any order or judgment (including, but not limited to, a default judgment) of any such court in relation to the Agreement, to the maximum extent permitted by the law of any jurisdiction, the laws of which might be claimed to be applicable regarding the effectiveness, enforcement or execution of such order or judgment.

24. TAXES

All payments under this Agreement shall be subject to the taxes payable / deductible under the Applicable Law.

25. ENTIRE AGREEMENT

The Agreement, including all schedules/annexures as may be appended to the Agreement shall constitute the entire Agreement between the Parties with respect to the subject matter of the Agreement.



26. AMENDMENT

No purported alteration or amendment of the Agreement shall be effective unless it is in writing, refers specifically to this Agreement and is duly executed by each of the Parties to this Agreement. Change in the scope of any of the activities/functions/services/obligations referred in the Agreement will always be done through mutual negotiation between First Party and the Second Party and implemented after appropriate lead time.

27. COUNTERPARTS

This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

28. NOTICES

Notices, demands or other communication required or permitted to be given or made under the Agreement shall be in writing and delivered personally or sent by prepaid post with recorded delivery, or by legible tele fax and confirmed by registered mail/ courier addressed to the intended recipient at the address as mentioned in the title of the Agreement. Either Party may from time to time duly notify to the other Party, change of address, if any.

IN WITNESS WHEREOF the Parties hereto have executed this Agreement the day and year first hereinabove written.

[Signature]



S.D.S.
42.
[Signature]
Escorts Heart Institute
and Research Centre Limited
Authorized Signatory



[Signature]
M/s Shou Restaurant Pvt. Ltd.
Authorized Signatory

[Signature]
Witness

- 1.
- 2.