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Public Healthcare in the Kingdom of Saudi Arabia: Plans for Private Sector Participation

Saudi Vision 2030 and the National Transformation Program 2020 are built upon the encouragement of private sector investment in sectors that have been predominantly funded and serviced by the Government in the past. Reform of how public healthcare and related services are delivered in the Kingdom is one of the Government's most important priorities. According to the National Transformation Program 2020, the Ministry of Health (the "MOH") plans to spend up to SAR23 billion prior to 2020 to reform and restructure primary health care.

This article summarises our current understanding of the strategic framework that has been developed by the MOH for private sector participation ("PSP") in the delivery of public healthcare in the Kingdom, including the MOH's PSP initiatives, the phases for the implementation of the PSP program, the proposed PSP structure and the proposed delivery models for the PSP initiatives.¹

PSP Initiatives

There are nine PSP initiatives covering different components of the healthcare sector. These initiatives, which we understand will all be the subject of a competitive tendering process, relate to the following:

- **Primary Care (or "PHC")** – the development, on a "build/rehabilitate-operate-transfer" ("BOT") basis, of existing PHC centres and new PHC centres for the provision of initial care by medical professionals. We understand that the establishment of up to 100 "mega" PHC centres, using the BOT model, is under consideration by the MOH.
- **Hospital Commissioning** – the development, on a "build-lease-operate-transfer" ("BLOT") basis, of hospitals that are not yet operating and in various stages of construction and commissioning.
- **Rehabilitation** – the provision of post-acute rehabilitation services in rehabilitation hospitals and centres.
- **Laboratory** – there are two components: (a) instead of in existing PHC centres, the provision of laboratory services in centralised laboratories known as "Primary Care Central Laboratories" ("PCCLs"), as well as the "Kingdom Reference Laboratory" (the "KRL") that, in both cases, will need to be developed; and (b) the provision of laboratory services in hospital laboratories and regional laboratories, that, in the case of the latter, will need to be developed.
- **Medical City** – the development, on a BLOT basis, of four medical cities, being Prince Mohammed Medical City ("PMMC") in the Western Province, King Abdullah Medical City ("KAMC") in the Mecca region, King Faisal Medical City ("KFMC") in the Jazan region and King Khaled Medical City ("KKMC") in the Eastern Province.

¹ It is important to note that the PSP developments relate to the public healthcare system, rather than healthcare that is provided by existing private sector providers.

- **Long-Term Care** – the provision of advanced medical services, basic medical services and non-medical services and nursing at long-term care facilities.
- **Pharmacy** – the provision of pharmaceuticals to in-patients and out-patients.
- **Radiology** – the provision of medical imaging services inside public hospitals.
- **Home Care** – the provision of medical services to patients at their homes.

PSP Program Phases

We understand that the MOH, in conjunction with its advisers, is in the process of developing the contractual frameworks and RFP for a “pilot project” within each PSP initiative (with the exception of the Medical Facility initiative), with the aim of the pilot projects being tendered and awarded by the end of this year. The “implementation” phase of the remaining projects within the applicable PSP initiative will begin in late 2017 or early 2018 and run through to 2022.

PSP Structure

The MOH intends to establish business units (“**BUs**”) to oversee the PSP initiatives. There will be specific BUs for Primary Care, Hospital Care, Extended Care and Medical Support Services. The BUs will issue RFPs, monitor the private partners (which we presume means the applicable SPVs) and transfer funds to these private partners from the MOH itself.

Special purpose vehicles (“**SPVs**”), which are to be owned by private companies and Public Investment Fund (note: the ownership split is unclear at this stage), will be responsible for the delivery of services/projects within the PSP initiatives. It would seem that, similar to the bidding process found in the power and water sector in the Kingdom, private bidders that have satisfied the pre-qualification process will be entitled to bid for the private sector shareholding in the applicable SPV and will be responsible for the delivery of the project/service for which such applicable SPV has been established. The MOH currently envisages that the following SPVs will be established:

- **Primary Care SPVs** – these SPVs will be under the jurisdiction of the Primary Care BU and we presume that these SPVs will develop and operate, on a BOT basis, designated groups of PHC centres;
- **Pri Co SPVs** – these SPVs will be under the jurisdiction of the Hospital Care BU and we presume that these SPVs will develop and operate, on a BLOT basis, designated hospitals and medical cities;
- **Extended Care SPVs** – these SPVs will be under the jurisdiction of the Extended Care BU and we presume that these SPVs will: (a) develop and operate (on a basis which is not clear, although we suspect that it would be on a BOT basis) designated rehabilitation and long-term care centres; and (b) provide home care services for designated regions;
- **Radiology SPVs** – these SPVs will be under the jurisdiction of the Medical Support Services BU and we presume that these SPVs will provide radiology services in designated public hospitals;
- **Laboratory, PCCL and KRL SPVs** – these SPVs will be under the jurisdiction of the Medical Support Services BU and we presume that these SPVs will: (a) develop and operate (on a basis which is not clear, although we suspect that it would be on a BOT basis) new laboratories such as PCCLs and the KRL, as required; and/or (b) provide laboratory services for designated hospitals/centres; and

- **Pharmacy SPVs** – these SPVs will be under the jurisdiction of the Medical Support Services BU and we presume that these SPVs will deliver pharmaceuticals to in-patients and out-patients in designated regions/hospitals.

Delivery Models for PSP Initiatives

Payment Structures

We understand that, essentially:

- the remuneration for the services being provided under a PSP initiative will be based on a “**per unit payment**” model, with additional incentive payments and disincentive deductions, depending on the applicable SPV’s performance against pre-agreed KPIs. We also understand that SPVs will be protected from the risk that no patients would use the applicable services in the first year of operation, by basing the payment model on a fixed number of patients; and
- if PSP initiatives require the applicable SPV to incur equipment, construction, renovation and/or furnishing costs, the applicable SPV will recover such costs through an “**availability payment**”, which we presume will be subject to deductions if the availability of the applicable facility is less than a pre-agreed “guaranteed” availability.

Radiology Initiative

We understand that the operating rights of existing imaging equipment in the designated public hospitals will be transferred to the Radiology SPVs. Each Radiology SPV will be responsible for procuring any new equipment that is required and, presumably, the costs of such equipment will be reimbursed through an availability payment over the term of the applicable service contract. The Radiology SPVs (or their subcontractors) will then provide imaging and maintenance services under service contracts with a term of 5 to 10 years. Consistent with our understanding above, service fees will be paid by the MOH (via the Medical Support Services BU) for each imaging report prepared but these fees will also need to cover variable maintenance costs. Fixed maintenance costs will need to be covered through a fixed payment, which would presumably be subject to deduction for poor availability of imaging equipment.

The MOH also notes that Radiology SPVs may be able to establish additional revenue streams from tele-radiology-based distant reporting services and introducing new imaging services (such as PET and screening).

Laboratory Initiative

We understand that there are three models, which are for:

- the development of PCCLs and provision of laboratory services by PCCL SPVs (or their subcontractors);
- the provision of laboratory services in hospitals and regional laboratories by Laboratory SPVs (or their subcontractors); and
- the development of the KRL and provision of specialised laboratory services by the KRL SPV (or its subcontractors).

For services provided under all three models, we understand that service fees will be payable by the MOH (via the Medical Support Services BU) on a “pay-per-result” basis. In the case of the KRL, it is envisaged that there will be an additional fixed service fee payable to the KRL SPV for auditing services of all other laboratories in the Kingdom.

If the applicable SPV incurs equipment, construction, renovation and/or furnishing costs, we understand that it will recover such costs through an availability payment by the MOH (via the Medical Support Services BU), which we presume will be subject to deductions if the availability of the applicable facility is less than a pre-agreed “guaranteed” availability.

The MOH also notes that SPVs formed pursuant to the Laboratory initiative may be able to establish additional revenue streams from provision of services to private clinics and private hospitals and export of laboratory services for advanced tests.

Hospital Commissioning and Medical City Initiatives

We understand that, as already mentioned above, service fees will be payable by the MOH (via the Hospital Care BU) on a “services provided” basis. For equipment, construction, renovation and/or furnishing costs incurred by the applicable Pri Co SPV, we understand that such Pri Co SPV will receive an availability payment from the MOH (via the Hospital Care BU). We presume that the availability payment will be subject to deductions if the availability of the applicable hospital/medical city is less than a pre-agreed “guaranteed” availability.

As found on many hospital PPPs around the world, the entity responsible for developing the hospital (in this case, the applicable Pri Co SPV) will enter into EPC contracts and service and maintenance contracts with medical and non-medical services companies for the provision of the services required at the hospital. However, radiology, laboratory and pharmacy services, which are covered by the separate PSP initiatives described in this note, would be carved-out of the services that the Pri Co SPV must provide or procure at the applicable hospital/medical city.

In connection with the Hospital Commissioning & Medical City Initiatives, the MOH has noted that the Pri Co SPVs (and the private partners) will benefit from credit support, tax exemptions and land grants.

The MOH also notes that Pri Co SPVs may benefit from the possibility of the market expanding if non-Saudi residents become eligible for public hospital services and that Pri Co SPVs may be able to establish additional revenue streams from operating commercial facilities within the hospital/medical city sites and R&D activities (e.g. clinical studies).

Extended Care Initiatives

We understand that, as already mentioned above, service fees will be payable by the MOH (via the Extended Care BU) on a “services provided” basis for the provision of post-acute rehabilitation services, long-term care services (such as advanced medical services, basic medical services and non-medical services and nursing) and/or medical services to patients at their homes.

For equipment, construction, renovation and/or furnishing costs incurred by the applicable Extended Care SPV in connection with rehabilitation or long-term care facilities that such Extended Care SPV may be required to refurbish or develop, we understand that such Extended Care SPV will receive an availability payment from the MOH (via the Extended Care BU). We presume that the availability payment will be subject to deductions if the availability of the applicable facility is less than a pre-agreed “guaranteed” availability.

The MOH also notes that Extended Care SPVs may be able to establish additional revenue streams from providing services to ineligible patients (i.e. fee-for-service patients), partnerships with other healthcare providers and operating commercial facilities within the facility sites.

Pharmacy Initiative

We understand that there are two models, which relate to in-patients and out-patients.

- **In-patient services** – As already mentioned above, service fees will be payable by the MOH (via the Medical Support Services BU) on a “fixed fee” basis for delivery by the applicable Pharmacy SPV of pharmaceuticals to in-patients. The applicable Pharmacy SPV will not be responsible for procuring or owning pharmaceuticals (the MOH will retain this responsibility), however, it will be responsible for storage, transportation and delivery of pharmaceuticals to in-patients.
- **Out-patient services** – The MOH notes that new regulations for pharmacy practices and the pharmaceutical industry will need to be implemented before the PSP initiative for out-patients is able to be implemented. We do understand that this PSP initiative will be service-based, with the services to be provided by the applicable Pharmacy SPV to include provision of all “reimbursement” medications with proper consultation, sale of medical products and provision of other services typically found in retail pharmacies.

Conclusion

Prospective private investors in the Kingdom’s public healthcare system should be encouraged by the latest developments as they show that the MOH is dedicated to attracting private sector investment and expertise to the public healthcare system and fulfilling the objectives of Saudi Vision 2030 and the National Transformation Program 2020. However, more details about how the PSP initiatives are to be implemented will be needed before private investors can begin planning their bids for new projects/contracts within these PSP initiatives. For example, private investors will need to see more detail regarding:

- the types of services that are required to be performed pursuant to the PSP initiatives;
- the types of qualifications required by potential bidders;
- the proposed duration and other key terms of the contracts to be entered into with the MOH (or the applicable BUs acting on the MOH’s behalf);
- the KPIs which will be a key component of additional remuneration that applicable SPVs may receive;
- the risks that the SPVs are expected to assume, so that private investors can determine the extent to which these risks are acceptable, potentially in the context of a project financing;
- the “offtake arrangements” and whether additional credit support will be required to ensure that the project structures are bankable; and
- in the case of projects requiring capital investment by the applicable SPVs (in particular): (a) how typical bankability concerns will be addressed, to ensure that project finance is available to help fund the capital investment required; and (b) how availability will be determined and the risks to availability that interfaces with SPVs performing services pursuant to other PSP initiatives (e.g. radiology, laboratory and pharmacy services).

With a few limited exceptions, the Kingdom’s only infrastructure projects involving private sector participation that have achieved financial close have been in the power and water sector, meaning that lawyers with experience in project development in this sector are best placed to advise on projects in other sectors being developed through private sector participation. Shearman & Sterling LLP’s lawyers have extensive experience

working on a number of “first-in-kind” projects in the Kingdom’s power and water sector, including the first independent power project (Sadaf IPP), the largest independent power and water project at the time (Marafiq Jubail IWPP), the first ever independent power project procured by SEC (Rabigh IPP) and the first power project procured under a new fuel supply arrangement with Saudi Aramco (Fadhili IPP).

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