

INTRODUCTION

This document has been prepared for the purchase of all types of Medical Appliances.

The procedures of this document shall be subjected to the approved laws in Iraq and the (Dissolved) Coalition Provisional Authority Order No. No. 87 of 2004, or any superseding law, the instructions of implementing the effective government contracts and the contacts attached thereto.

Model Tender Documents for specialized sectors
FOR THE PURCHASE OF Medical Appliances

Contracting Entity _____ : *[Name of Contracting Entity]*

Project/Tender name _____ : *[Name of Project / Tender]*

Project/ Tender Ref. No.. : *[Project/Tender reference number as listed in the Budget]*

Date : *Issued on [insert date of tender advertising]*

Letter of Invitation / Declaration (insert type of Tender)

To: M.S/

Subject/ [insert tender name and No.]

The [insert name of Contracting Entity] is pleased to invite qualified and experienced bidders for submitting their bids for the preparation of [insert brief description of Medical Appliances]; noting the following:

1. Qualified bidders who desire to obtain additional information shall contact (insert name of Contracting Entity) and [insert office working days and hours] as indicated by the instructions for bidders.
2. Bidders shall fulfill qualifications requirements including: [insert a list of required qualification requirements].
3. The interested bidders may purchase the bid documents after submitting a written application to the set out address in the Bid Data Sheet and upon payment of a fee [insert amount in Iraqi Dinar]
4. Bids shall be delivered to the following address [insert the full address of the Contracting Entity] on the specified date [insert the submission date]. Late bids will be rejected and bids will be opened in the presence of bidders or their representatives who desire to attend at the following address [insert the address] at [insert the time and date].

Note (the Contracting Entity can add other data that suits the nature of the Tender provided that they do not conflict with the legal legislation, governing the procedures of the Iraqi Public Contracts)

[Signature]

[insert the name of the authorized representative of the Contracting Entity]

[insert the job title of the authorized representative of the Contracting Entity]

Contents

Part one- Contracting Procedures

It contains the following sections:

Section one: Instructions to Bidders

This section provides the information necessary for Bidders to prepare and submit responsive bids that meet the Contracting Entity's requirements. It also provides information on how to bid, open, evaluate and award bids. The first section contains provisions that shall be used without amendment.

Section Two: Bid Data Sheet

This section contains provisions concerning the supply process that supplement what is stated in Section one.

Section Three: Evaluation and Qualification Criteria

This section defines the criteria used to determine the least-cost bid, and the qualification requirements that the bidder possesses to complete the Contract.

Section Fourth: Bidding Forms

This section includes the bidding forms, and the Price Schedule, to be submitted therewith.

Section Five: Qualified Countries

This section includes information about the qualified countries.

Part two - Contracting Requirements

This Part contains the following section:

Section Sixth: List of contracting requirements

This Section contains the List of Goods and Related Services, the Delivery and Completion criteria Schedules, the Technical Specifications and the Drawings that describe the (Medical Appliances) and Related Services thereto, to be supplied

Part three: Contract conditions and forms

Section Seventh. General Conditions of Contract (GCC)

This Section contains the general clauses, to be applied in all contracts. The provisions of clauses included in this section can not be amended.

Section Eighth. Special Conditions of Contract (SCC)

This Section contains clauses specific to each contract that modify or supplement the general conditions of the contract, included in section SEVEN.

Section Ninth: Contract Documents

This Section contains the contract form, which, once completed, incorporates any corrections and modifications to the accepted Bid relating to amendments permitted by the Instructions to Bidders, the General Conditions of Contract, and the Special Conditions of Contract.

Part one: - Contracting Procedures

Section one - Instructions to Bidders

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Instructions to Bidders

A. General

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| <p>1. Scope of tender</p> | <p>1.1 The Contracting Entity, as specified in the Bid Data Sheet (BDS) and in the Special Conditions of Contract (SCC), invites bids for the supply of (Medical Appliances) as specified in the Bid Data Sheet and Schedule of Requirements.</p> <p>The contract shall be financed from the amounts allocated in the budget specified in the Bid Data Sheet.</p> <p>1.2 The following terms will have the meanings specified in these tender documents: “writing” means any written or printed communication including the book / letter that is received by hand, or telex and fax; “today” means a sun day; the singular also means the plural.</p> |
| <p>2. Fraud and Corruption</p> | <p>2.1 The Contracting Entity policy requires that bidders, suppliers, and contractors, their subcontractors and their staff shall observe the highest standard of ethics during the procurement and execution of contracts for achieving this policy:</p> <p>(a) The contracting entity adopts the definition of "corruption and fraud" according to the relevant and in force Iraqi laws. For the purpose of this article, the contracting entity will also be guided by definitions of terms as defined here below:</p> <p>(1) “corrupt practice” shall mean the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;</p> <p>(2) “fraudulent practice” shall mean any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation;</p> |

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| | <p>(3) “collusive practice” shall mean an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;</p> |
| | <p>(4) “coercive practice” shall mean impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;</p> |
| | <p>(5) “obstructive practice” shall mean:</p> |
| | <p>(5.1) Deliberate destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Contracting Entity’s investigation into allegations of a corrupt, fraudulent, coercive or collusive practice in accordance with the applicable Iraqi laws; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or</p> |
| | <p>(5.2) The acts intended to materially impede or obstruct the exercise of inspection and audit rights provided for under Sub-Clause 2.1 (d) below in accordance with the applicable Iraqi laws.</p> |
| | <p>(b) The contacting entity will reject the Bid if it determines in accordance with the applicable Iraqi laws that the bidder recommended for award has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for the contract in question;</p> |
| | <p>(c) The contacting entity will sanction any firm or party (company or person) in accordance with the applicable Iraqi laws, including declaring him/it as uneligible for contract awarding either indefinitely or for a stated period of time if is the competent Iraqi Authorities has determined that the firm has, directly or through an agent, engaged in corrupt, fraudulent, collusive, coercive or obstructive practices in competing for, or in executing, a Contracting Entity financed contract; and</p> |

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| | <p><u>(d)</u> The contracting entity will have the right to inspect the accounts and records and other documents relating to the bid submission and contract performance of bidders, suppliers, and contractors and their sub-contractors and to have them audited by the competent authorities in accordance to the applicable Iraqi Laws.</p> |
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B. Tender Documents

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| 3. Content of Tender Documents | 3.1 The Tender Documents are those stated below and shall be read in conjunction with any addendum issued in accordance with ITB Clause 5: |
| | Section one. Instructions to Bidders (ITB) Section Two. Bid Data Sheet (BDS) Section Three. Evaluation and Qualification Criteria Section Fourth. Bidding Forms Section Five. Qualified Countries Section Sixth. Schedule of Requirements Section SEVEN General Conditions of Contract (GCC) Section EIGHT. Special Conditions of Contract (SCC) Section Ninth Contract Forms |
| | 3.2 The “Invitation for Bids” does not form part of the Tender Documents. |
| 4. Clarification of Tender Documents | 4.1 A prospective Bidder requiring any clarification of the Tender Documents shall contact the Contracting Entity in writing or by cable, (the term “cable” is deemed to include electronic mail, telex, or facsimile) at the Contracting Entity’s address indicated in the Bid Data Sheet. The Contracting Entity will respond in writing to any request for clarification, for example, if the announcement period is (15) days, the inquiry shall be not less than (10) days. |
| | According to the period of advertisement, copies of the Contracting Entity’s response shall be sent to all prospective Bidders who have purchased the Tender Documents, including a description of the inquiry but without identifying its source. |
| | 4.2 In order to maintain the confidentiality of the procedures during the Bid advertisement period, information about the names and addresses of Bidders and their agents shall not be disclosed to any unconcerned party. |
| 5. Amendment of Tender Documents | 5.1 At any time prior to the deadline for submission of bids, the Contracting Entity may amend the Tender Documents by issuing Addenda. |
| | 5.2 Any addendum thus issued shall be part of the Tender Documents pursuant to ITB Sub-Clause 3.1 and shall be communicated in writing to all purchasers of the Tender Documents and will be binding on them. Bidders are required to immediately acknowledge receipt of any such amendment, and it will be assumed that the information contained in the amendment will have been taken into account by the Bidder in its bid. |
| | 5.3 To give prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the Contracting Entity shall extend, at its discretion, the deadline for submission of bids, in which case, the Contracting Entity will notify all Bidders by cable confirmed in writing of the extended deadline. The |

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| | Contracting Entity shall announce any extension of the deadline for bid submission in same media as was done for the Short Procurement Notice of this tender. |
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C. Preparation of Bids

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| 6. Eligibility | 6.1 This bidding process is to qualified firms from any qualified country in accordance with the applicable Iraqi laws, including the instructions of scientific offices for the year 1999. The Firms may be excluded from bidding if: |
| | The firms have a conflict of interest. All Bidders found to have a conflict of interest shall be disqualified. A Bidder may be considered to have a conflict of interest with one or more parties in this bidding process, if : |
| | (1) they have a common controlling partner; or |
| | (2) they receive or have received any direct or indirect subsidy from any of them; or |
| | (3) they have the same legal representative for purposes of this bid; or |
| | (4) they have a relationship with each other, directly or through common third parties, that puts them in a position to have access to information about or influence on the bid of another Bidder, or influence the decisions of the Contracting Entity regarding this bidding process; or |
| | (5) a Bidder submits more than one bid in this bidding process, either individually or as a partner in a joint venture. This will result in the disqualification of all such bids. However, this does not limit the participation of a Bidder as a subcontractor in another bid or of a firm as a subcontractor in more than one bid. or |
| | (6) (6.1) a firm has been engaged by the Contracting Entity to provide specifications, and other documents to be used for the procurement of the (Medical Appliances) described in these Tender Documents by a request of the contacting entity or; |
| | 6.2 The Government staff and Public Sector cannot participate directly or indirectly in Public Tenders |
| | 6.3 A firm declared Black listed or Suspended by the competent authorities shall not be eligible to bid during the period of time determined. A list in this regard is available on the website specified in Bid Data Sheet. |
| 7. Eligibility proving documents (medical appliances) & services and their | 7.1 Pursuant to ITB Clause 12, the Bidder shall furnish, as part of its bid, documents establishing, to the Contracting Entity's satisfaction, the eligibility of the (Medical Appliances) to be supplied under the Contract. |

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| compliance with the tender documents | |
| | 7.2 The eligibility proving documents of the (Medical Appliances) shall consist of a statement in the Price Schedule of the country of origin of the (Medical Appliances) offered that shall be confirmed by a certificate of origin to be issued at the time of shipment and approved by the competent Iraqi authorities in the country of origin; as required by the legislation in force and as stated in the Bid Data Sheet. |
| | 7.3 The proving documents of conformity of (Medical Appliances) as specified in Section Sixth Schedule of Requirements may be in the form of literature, drawings, and data and shall consist of: |
| | (a) a detailed description of the essential characteristics of the Medical Appliances; |
| | (b) an item-by-item commentary on the Contracting Entity's Technical Specifications demonstrating substantial responsiveness of the (Medical Appliances) to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications; |
| | (c) any other documents of the tender as stated in the Bid Data Sheet. |
| | 7.4 Unless the Bid Data Sheet stipulates otherwise, the (Medical Appliances) to be supplied under the Contract shall be registered with the competent authority in Iraq. A Bidder who has already registered its (Medical Appliances) by the time of bidding shall submit a copy of the Registration Certificate with its bid. Otherwise, the successful Bidder, by the time of Contract signing, shall submit to the Contracting Entity either: |
| | (a) a copy of the Registration Certificate of the (Medical Appliances) for use in the Iraq. OR, if such Registration Certificate has not yet been obtained, |
| | (b) evidence establishing to the Contracting Entity's satisfaction that the Bidder has complied with all the documentary requirements for registration as specified in the Bid Data Sheet. |
| | (c) It is permissible to exclude from registration according to the powers of the Minister of Health. |
| | 7.4.1 The Contracting Entity shall at all times cooperate with the successful Bidder to facilitate the registration process within Iraq. The agency and contact person able to provide additional information about registration are identified in the Bid Data Sheet. |
| | 7.4.2 (a) If the (Medical Appliances) of the successful Bidder have not been registered in Iraq at the time of Contract signing, then the Contract shall become effective upon such date as the Certificate of Registration is obtained. |
| | (b) The Minister of Health may exclude the successful bidder from submitting the medical appliances registration certificate upon |

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| | signing the contract, in which case the contract shall be valid. |
| | 7.5 For purposes of the commentary to be furnished pursuant to ITB Sub-Clause 7.3 (b) above, the Bidder shall note that standards as well as references to brand names designated by the Contracting Entity in its Technical Specifications are intended to be descriptive only and not restrictive. The Bidder may substitute alternative standards, brand names, and/or catalog numbers in its bid, provided that it demonstrates to the Contracting Entity's satisfaction that the substitutions ensure substantial equivalence to those designated in the Technical Specifications. |
| 8. Qualifications of the Bidder | 8.1 The Bidder shall provide proving documents to establish to the Contracting Entity's satisfaction that: |
| | (a) the Bidder has the financial, technical, and production capability necessary to perform the Contract, fulfills the Qualification Criteria specified in Section Three Evaluation and Qualification Criteria. |
| | (b) in the case of a Bidder offering to supply (Medical Appliances), identified in the Bid Data Sheet, that the Bidder did not manufacture or otherwise produce, the Bidder has been duly authorized by the manufacturer or producer of such (Medical Appliances) to supply the (Medical Appliances) in Iraq as per format of Manufacturer's Authorization Form in Section Fourth; |
| | (c) in the case of a Bidder who is not doing business within Iraq (or for other reasons will not itself carry out service/maintenance obligations), the Bidder is or will be (if awarded the Contract) represented by a local service/maintenance provider in Iraq equipped and able to carry out the Bidder's warranty obligations prescribed in the Conditions of Contract and/or Technical Specifications; and |
| | (d) the Bidder fulfills the qualification criteria listed in the specified in Section Three Evaluation and Qualification Criteria (see additional clauses of Section Three for Medical Appliances). |
| 9. One Bid per Bidder | 9.1 Each firm shall submit only one bid as an individual Bidder and in accordance with ITB 6.1.a. |
| 10. Cost of Bidding | 10.1 The Bidder shall bear all costs associated with the preparation and submission of its bid, and the Contracting Entity will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the bidding process. |
| 11. Language of Bid | 11.1 The bid and all the correspondence and the documents exchanged between the Bidder and the Contracting Entity shall be prepared in the language referred to in the Bid Data Sheet. The Bidder may submit any of the literature related thereto which constitute part of its bid in another language. The texts of the bid language shall be accompanied with an accurate translation. The translation will be adopted for the purpose of interpreting the bid. |
| 12. Documents Constituting the Bid | 12.1 The bid submitted by the Bidder shall comprise the following: |
| | a) The complete Bid Submission Form and Schedule of Prices in |

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| | accordance with the forms referred to in Section Fourth; |
| | b) Bid Guarantee (the original copy) in accordance with Article 17 of the Instructions to Bidders (Bid Guarantee); |
| | c) a writing and enforceable authorization authorization to sign the bid that obligates the bidder; |
| | d) Documentary evidences in accordance with Article 7 of the Instructions to Bidders, confirming, according to the agreement of the contracting authority, that (medical appliances) are in conformity with the requirements of the tender documents; |
| | e) Documentary evidences in accordance with Article 8 of the Instructions to Bidders - the bidder's qualifications, confirm, according to the agreement of the contracting authority, that the bidder is eligible to implement the contract if his bid is accepted; |
| | (f) The bidder's purchase receipt for the bid document; |
| | (g) The manufacturer's Authorization Form according to the form attached in Section Fourth, if any, in accordance with Article 8.1 (b) of the Instructions to Bidders. |
| | (h) any other required document shall be specified in the Bid Data Sheet. |
| 13. Bid Submission Form | 13.1 The Bidder shall complete the Bid Form and the appropriate Price Schedule provided under Section Fourth indicating the Medical Appliances to be supplied, a brief description of the (Medical Appliances), their country of origin, quantity, and prices. |
| 14. Bid Prices and Discounts | 14.1 The Bidder shall quote their prices as per format of Price Schedule provided under Section Fourth all the specified components of prices shown therein. All the columns shown in the Price Schedule shall be filled up as required. |
| | 14.2 The quoted prices for (Medical Appliances) offered for domestic (Medical Appliances) or (Medical Appliances) of foreign origin located in Iraq shall be quoted in the Price Schedule given under Section Fourth (2). The quoted prices for (Medical Appliances) to be imported from abroad, shall be quoted in the Price Schedule given under Section Fourth (3). |
| | 14.3 While filling up the columns of the Price Schedule, the following aspects shall be noted for compliance: |
| | 14.3.1 For domestic (Medical Appliances) or (Medical Appliances) of foreign origin located in Iraq, the prices under column 5 in the corresponding Price Schedule in at Section Fourth (2) shall be entered separately in the following manner: |
| | Column 5 (a): Prices (medical appliances) that are delivered at the ex-factory / (medical appliances) that are delivered in the ex-showroom / (medical appliances) that are delivered from the warehouse (ex off-the-shelf, depending on the case; These prices should include all fees and taxes (such as sales tax, customs fees, fees for consumables, etc.) paid or paid on the basis of components (medical appliances) and on raw materials used in manufacturing |

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| | (medical appliances) or assembled which Their prices were determined on the basis of their delivery at the factory, in the showroom, from the warehouse, etc. ... or fees and taxes paid on (medical appliances) of foreign origin that were previously imported, and their prices were determined on the basis of delivery in the showroom etc. These prices also include the shipping and handling costs. |
| | Column 5(b): Any sales and other taxes and duties like Excise Duty, Sales Tax etc., which will be payable on the (Medical Appliances) in Iraq if the Contract is awarded; |
| | Column 5(c): Inland Transportation, Insurance, Loading/ Unloading and other incidental costs till to delivery of the (Medical Appliances) to their final destination as specified in the Schedule of Requirements. |
| | Column 5 (d): prices of secondary services, including installation and the method of operation / use and training at the location of the beneficiaries (end user) as specified in the Schedule of Requirements. |
| | 14.3.2 For (Medical Appliances) offered from abroad, the prices under Column 5 in the corresponding Price Schedule as per format in Section Fourth (3) shall be entered separately in the following manner: |
| | Column 5(a): The price of (Medical Appliances) quoted CIP at port/airport of destination; |
| | Column 5(b): The price of (Medical Appliances) quoted DDP (Delivery Duty Paid) at End-user site in Iraq as specified in the Schedule of Requirements. |
| | Column 5(c): The price of Incidental Services including installation, demonstration and onsite training at End-users' site, if applicable, as mentioned in Schedule of Requirements; |
| | 14.3.3 Annual Maintenance Contract (AMC) at End-users' site for the stipulated years after warranty period in the Price Schedule as per format in Section Fourth (4), if applicable as specified in Schedule of Requirements. The cost of AMC may be quoted along with taxes applicable on the date of Bid Opening. The taxes to be paid extra, to be specifically stated. In the absence of any such stipulation the price will be taken inclusive of such taxes and no claim for the same will be entertained later. During AMC contract period the Supplier shall keep sufficient stock of spares required during and will to attend to the break down calls promptly. An UPTIME warranty of 'x'% per year during Annual Maintenance Contract, if applicable, as specified in Section Sixth Schedule of Requirements shall be provided. In such cases if the Down Time exceeds (100-x) % per year during AMC period, it will extend the AMC period by double the down time period. |
| | 14.4 The terms EXW, FCA, FOB, CIF, CIP, DDP, etc., shall be governed by the international rules for interpreting trading terms as prescribed in the current edition of INCOTERMS® published by |

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| | the International Chamber of Commerce, Paris, (as stipulated in the Bid Data Sheet). |
| | 14.5 The Bidder's separation of price components in accordance with ITB Sub clause 14.3 above will be solely for the purpose of facilitating the comparison of bids by the Contracting Entity and will not in any way limit the Contracting Entity's right to contract on any of the terms offered. |
| | 14.6 Price quoted by Bidder shall be fixed and unchangeable during the currency of the Contract and not subject to any variation on any account. |
| | 14.7 If more than one schedule (or lot) has been specified in Section Sixth Schedule of Requirements, these Tender Documents allow Bidders to quote separate prices for one or more schedules (or lots). The Bidder may quote for one or more schedules (or lots) but are required to quote for all items and its full quantity of the goods of that schedule. The Schedules (or lots) shall be listed and priced separately in the Price Schedules. Bids shall be evaluated for each schedule (or lot) separately. |
| | 14.8 Neglecting the offer based on a reduction of a percentage or a lump sum from any other bids submitted in the tender and not accepting any reservation and any reduction of the price submitted after the closing date of the bidding. The condition of not making changes after the notice of award shall be confirmed. Any letter requesting reduction after the closing date without the request of Kimadia will be neglected and not considered. |
| 15. Bid Currencies | 15.1 Prices shall be quoted in the following currencies: |
| | (a) The Bidder shall express its prices for such (Medical Appliances) to be supplied from Iraq in the Iraqi Dinar. |
| | (b) The Bidder may express the bid price of the (Medical Appliances) to be supplied from abroad as indicated in the Bid Data Sheet. |
| 16. Bid Validity Period | 16.1 Bids shall remain valid for the period stipulated in the Bid Data Sheet after the date of bid submission specified in ITB Clause 20. A bid whose validity period is less than required shall be rejected as a bid that does not comply with the conditions. |
| | 16.2 In exceptional circumstances, prior to expiry of the original bid validity period, the Contracting Entity may request that the Bidders extend the period of validity for a specified additional period. The request and the responses thereto shall be made in writing. A Bidder may refuse the request without forfeiting its bid Gaurantee. The Bidder agreeing to the request will not be required or permitted to modify its bid, but will be required to extend the validity of its bid Gaurantee for the period of the extension. |
| 17. Bid Gaurantee | 17.1 The Bidder shall furnish as part of its bid an unconditional and payable bid guarantee upon first demand of the contracting entity in any of the following formats: |
| | (a) A letter of credit as per the form attached in Section Fourth, |

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| | (b) A certified cheque |
| | (c) or any other form specified by the Contracting Entity in the Bid Data Sheet |
| | The value Bid Gaurantee shall be as stipulated in the Bid Data Sheet and in the Schedule of Requirements in Section Sixth. |
| | 17.2 The bid Gaurantee shall be addressed to the Contracting Entity stating the number and title of the IFB and shall remain valid for a period of 28 days beyond the validity period for the bid, and beyond any extension subsequently requested under Article 16-2 of the instructions to bidders. |
| | 17.3 The bid Gaurantee shall, at the Bidder's option, be in the form of either a Letter of Credit or a Bank Guarantee from an accredited bank in Iraq and in accordance with the instructions of Central Bank of Iraq in the format provided in the Tender Documents or any other form specified by the contracting party in the Bid Data Sheet or Bonds issued by the Republic of Iraq. In the case of Bank Guarantee furnished from the banks outside Iraq, it shall be endorsed and countersigned by accredited bank in Iraq by way of back-to-back counter guarantee. |
| | 17.4 The contracting entity will (on the recommendation of the study and analysis committees) reject any bid that does not accompany it with an acceptable bid guarantee, as the bid does not respond to the conditions. |
| | 17.5 Upon the approval of the Contracting entity, the Contracting Entity has the right to release the Bid Securities of the unsuccessful Bidders that are unlikely to be awarded the Contract before the end of the Bid Validity and after the referral recommendation has been made. In such a case, the Bid Securities of the first three (3) candidates Bidders shall be retained in view of ITB Sub-Clause 38.2. |
| | 17.6 The bid Gaurantee of the successful Bidder will be returned when the Bidder has signed the Contract and furnished the required performance Gaurantee. |
| | 17.7 The bid Gaurantee may be forfeited by the contracting authority if: |
| | (a) if the Bidder withdraws its bid after closing the tender, except as provided in ITB Sub-Clauses 16.2 and 22.3; or |
| | (b) in the case of a successful bidder, if the Bidder fails within the specified time limit to: (1) sign the contract, or (2) furnish the required good performance Gaurantee. |
| | 17.8 If the bid Gaurantee is not provided by some Bidders, due to exemption provided by the Iraqi applicable laws, as in the case of Public Companies or others as specified in Bid Data Sheet Sub-Clause 17.1, and |
| | a) if such a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form after |

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| | closing the tender, except as provided in ITB Sub-Clause 16.2, or |
| | b) if such a Bidder is nominated as a successful Bidder and fails to: sign the Contract in accordance with ITB Clause 37; or furnish a performance Guarantee in accordance with ITB Clause 38; |
| | the Contracting Entity may, if provided for in the Bid Data Sheet, declare the Bidder disqualified to be awarded a contract by the Contracting Entity and proceed with the administrative actions as stated in the Bid Data Sheet. |
| | c) If an unsuccessful bidder submits a complaint or objection in accordance with Article 36 of the Instructions to the bidders, and it becomes clear to the competent authorities that this complaint or this objection was for wrong or unjustified reasons; The value of the damages resulting from this delay in signing the contract will be compensated according to Iraqi laws and procedures in force |
| 18. Bid Form and Signature | 18.1 The Bidder shall prepare an original of the bid, and may include a compact disk of the technical offer. The financial offer shall be submitted in one original (paper) form. |
| | 18.2 The original and all copies of the bid, each consisting of the documents listed in ITB Sub-Clause 12.1, shall be typed or written in indelible ink and shall be signed by the Bidder or the duly authorized person to bind the Bidder to the Contract. The authorization shall be indicated as specified in the Bid Data Sheet by those legally authorized to sign, which pursuant to ITB Sub-Clause 12.1 (c) shall accompany the bid. The Bidder has to ensure the signature of the Bid Submission Form and of every page of the Price Schedules and the attached documents to the Bid by the person signing the Bid. Noting that all pages of the bid where entries or corrections on entries have been made by the Bidder shall be signed or initialled by the person signing the bid. The additions and corrections shall be signed by the bidder, and the signature should be in the first name or initials. Prices shall be incorporated by the Bidder in words and figures as required in the Price Schedules. Any other requirement is specified in the Bid Data Sheet. |
| | 18.3 The Bid shall contain no interlineations, erasures, or modifications to the Tender Documents, except to correct errors made by the Bidder in preparing the Bid Forms and where accordingly such corrections shall be signed and initialled by the authorised person or persons signing the bid. |

D. Delivery of Bids

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| 19. Sealing and Marking of Bids | 19.1 (A) Bidders may always submit their bids by express mail, express courier or by hand as per the Bid Data Sheet. |
| | (B) The Bidder shall enclose the original and each copy of the bid |

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| | in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” and “COPY.” The envelopes containing the original and copies shall then be enclosed in another envelope as stipulated in the Bid Data Sheet. |
| | 19.2 The inner and outer envelopes shall: |
| | (a) bear the name and address of the Bidder and Bidder stamp on four corners; |
| | (b) be addressed to the Contracting Entity at the address given in the Bid Data Sheet; |
| | (c) bear the Tender, Tender number, and IFB number indicated in the Bid Data Sheet; and |
| | (d) bear a statement “DO NOT OPEN BEFORE [date and time]” to be completed with the time and date specified in the Bid Data Sheet relating to ITB Sub-Clause 20.1. |
| | 19.3 If the outer envelope is not sealed, stamped and marked as required by ITB Sub-Clause 19.2 and in accordance with the applicable Iraqi laws, the Contracting Entity will assume no responsibility for the misplacement or premature opening of the bid. |
| 20. Deadline for Submission of Bids | 20.1 Bids shall be received by the Contracting Entity at the address specified in ITB Sub-Clause 19.2 (b) no later than the time and date specified in the Bid Data Sheet. A receipt will be provided by the Contracting Entity against each Bid submitted. One copy of the receipt will be for the Bidder, and the second copy will be kept by the Contracting Entity for a further reference |
| | 20.2 The Contracting Entity may, at its discretion and before the deadline, extend the deadline for the submission of bids by amending the Tender Documents in accordance with ITB Sub-Clause 5.3, in which case all rights and obligations of the Contracting Entity and Bidders previously subject to the deadline will thereafter be subject to the deadline as extended. |
| 21. Late Bids | 21.1 Any bid received by the Contracting Entity after the deadline for submission of bids prescribed in ITB Clause 20 will be rejected. |
| 22. Modification and Withdrawal of Bids | 22.1 The Bidder may modify or withdraw its bid after submission, provided that written notice of the modification, or withdrawal of the bids duly signed by an authorized representative with a valid proof of the authorization, is received by the Contracting Entity prior to the deadline prescribed for submission of bids. |
| | 22.2 The Bidder’s modification or substitution shall be prepared, sealed, marked, and dispatched prior to the deadline for submission of bids and as follows: |
| | (a) The Bidder shall provide an original and the number of copies specified in Bid Data Sheet article 19.1 of any modifications to its bid, clearly identified as such, in two inner envelopes duly marked “BID MODIFICATION-ORIGINAL” or “BID SUBSTITUTION- |

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| | ORIGINAL” and “BID MODIFICATION-COPIES” or “BID SUBSTITUTION-COPIES.” The inner envelopes shall be sealed in an outer envelope, which shall be duly marked “BID MODIFICATION” or “BID SUBSTITUTION.” |
| | (b) Other provisions concerning the marking and dispatch of bid modifications shall be in accordance with ITB Sub-Clauses 19.2 and 19.3. |
| | 22.3 A Bidder wishing to withdraw its bid shall notify the Contracting Entity in writing prior to the deadline prescribed for bid submission. A withdrawal notice shall be received prior to the deadline for submission of bids and shall: |
| | (a) be addressed to the Contracting Entity at the address named in ITB Sub-Clause 19.2 (b) |
| | (b) bear the Invitation for Bids (IFB) title and number indicated in named in ITB Sub-Clause 19.2 (c) and the words “BID WITHDRAWAL NOTICE” and |
| | (c) be accompanied by a valid written power of attorney authorizing the signatory of the withdrawal notice to withdraw the bid. |
| | 22.4 Bids requested to be withdrawn in accordance with ITB Sub-Clause 22.3, shall be returned unopened to the Bidders. |
| | 22.5 No bid may be withdrawn, substituted, or modified in the interval between the bid submission deadline and the expiration of the bid validity period specified in ITB Clause 16. Withdrawal of a bid during this interval may result in the forfeiture of the Bidder’s bid Gaurantee, pursuant to ITB Sub-Clause 17.7. |

E. Opening and Evaluation of Bids

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| <p>23. Opening of Bids</p> | <p>23.1 The Contracting Entity (Bid Opening Committee) will open all bids, including withdrawal notices and modifications, in public, in the presence of Bidders or representatives (authorized) who choose to attend, at the time, on the date, and at the place specified in the Bid Data Sheet. Bidders or representatives shall sign a register as proof of their attendance.</p> |
| | <p>23.2 Envelopes marked “WITHDRAWAL” shall be read out and the envelope with the corresponding bid shall not be opened but returned to the Bidder. No bid withdrawal notice shall be permitted unless the corresponding withdrawal notice with a valid authorization is read out at bid opening. Next, envelopes marked “SUBSTITUTION” shall be opened and read out and exchanged with the corresponding bid being substituted, and the substituted bid shall not be opened, but returned to the Bidder. No bid substitution shall be permitted unless the corresponding substitution notice contains a valid authorization to request the substitution and is read out at bid opening. Envelopes marked “MODIFICATION” with a valid authorization shall be read out and opened with the corresponding bid.</p> |
| | <p>23.3 All other Bids shall be opened one at a time, reading out: the name of the Bidder and the Bid Price of each item or schedule (or lot) including any discounts, and indicating whether there is: the presence or absence of a bid Gaurantee, if required; the presence or absence of requisite powers of attorney; and any other such details as the Contracting Entity may consider appropriate. No bid shall be rejected at bid opening. All pages of the original of each Bid shall be stamped with the bid opening committee stamp and the bid opening committee members shall sign on all pages of the price schedules of the original of each Bid.</p> |
| | <p>23.4 Bids (and modifications sent pursuant to ITB Sub-Clause 22.2) that are not opened and read out at bid opening shall not be considered further for evaluation, irrespective of the circumstances.</p> |
| | <p>23.5 The Contracting Entity will prepare minutes of the bid opening at the end of the opening session, with the here above mentioned information of ITB Sub-Clauses 23.1, 23.2. 23.4, and 23.6 and including in minimum the following information about:</p> |
| | <ul style="list-style-type: none"> - sealing and stamping of the envelopes; - the price of the bid (per lot) if any, including any discounts, any conditional prices or any other bid discounts; - marking clearly any alteration, erasure, correction made by the Bidder on the prices schedules, signed by the head and the members of the Bid Opening Committee - slashing un-priced items with horizontal lines; along with the signature of the chairman and members of the Bid Opening Committee |

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| | <ul style="list-style-type: none"> - the Bidder's signatures on the Bid Submission Form and other attached Bid Forms and of every page of the price schedules; - number of pages of each Bid; - any other relevant remarks and reservations made by the Bidder on the Bid; - any other remarks and general description and highlights to be made by the Committee on any attachments to the Bid. |
| | All Bid's content and attachments will be initialled by the Bids Opening Committee. All the pages of the quoted Price Schedule of the Bidders shall be signed by the chairman and members of the Committee. |
| | 23.7 The Bidder's representatives who are present shall be requested to sign the minutes with the right to add any comment on the performance of the Committee. The omission of a Bidder's signature on the minutes shall not invalidate the content and effect of the minutes. The minutes shall be distributed to all Bidders who wish to retain its copy. |
| | 23.8 All Bids' prices, technical specifications, and implementation periods will be officially placed on the Contracting entity's bill board while stating that these are to be analysed and verified further. |
| | 23.9 The Bids will be referred to the Bids Evaluation Committee after having approval of the Head of the Contracting Entity. |
| 24. Clarification of Bids | <p>24.1 During evaluation of the bids, only the Contracting Entity (the Bid Evaluation and Analysis Committee) may, at its discretion, ask the Bidder for a clarification of its bid. The request for clarification and the response shall be in writing, and no change in the prices or substance of the bid shall be sought, offered, or permitted, except to correct arithmetic errors identified by the Contracting Entity in the evaluation of the bids, in accordance with ITB Sub-Clause 27.1.</p> <p>If a Bidder does not provide clarifications of its bid by the date and time set in the Contracting Entity's request for clarification, its bid may be rejected.</p> |
| 25. Procedures Confidentiality | 25.1 Information relating to the examination, clarification, evaluation, and comparison of bids, and recommendations for the award of a Contract shall not be disclosed to bidders or any other persons not officially concerned with such process until the notification of Contract award is made to all Bidders. |
| | 25.2 Any effort by the bidder to influence the Contracting Entity (the Bid Evaluation and Analysis Committee) in the Contracting Entity's bid evaluation, bid comparison, or contract award decisions may result in the rejection of the Bidder's bid. |
| | 25.3 From the time of bid opening to the time of Contract award, if any Bidder wishes to contact the Contracting Entity on any matter related to its bid, it shall do so in writing. |
| 26. Initial auditing of bids | 26.1 The Contracting Entity (the Bid Evaluation and Analysis Committee) will evaluate and analyze the bids to ensure that they |

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| and determining its response to the tender documents | are complete, that there are no mathematical errors, that the required bid guarantee exists, that the documents were duly signed and that the bids are generally correct. |
| | 26.2 The Contracting Entity (the Bid Evaluation and Analysis Committee) may waive any minor informality, nonconformity, or irregularity in a bid that does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any Bidder. |
| | 26.3 Prior to the detailed evaluation, pursuant to ITB Clause 29, the Contracting Entity (the Bid Evaluation and Analysis Committee) will determine whether each bid is of acceptable quality, is complete, and is substantially responsive to the Tender Documents. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the Tender Documents without material deviations, exceptions, objections, conditionality, or reservations. A material deviation, exception, objection, conditionality, or reservation is one: |
| | (1) that limits in any substantial way the scope, or quality of the (Medical Appliances) and related Services; |
| | (2) that limits, in any substantial way that is inconsistent with the Tender Documents, the Contracting Entity's rights or the successful Bidder's obligations under the Contract; and |
| | (3) that the acceptance of which would unfairly affect the competitive position of other Bidders who have submitted substantially responsive bids. |
| | 26.4 If a bid is not substantially responsive, it will be rejected by the Contracting Entity (the Bid Evaluation and Analysis Committee) and may not subsequently be made responsive by the Bidder by correction of the nonconformity. The Contracting Entity's determination of a bid's responsiveness is to be based on the contents of the bid itself |
| 27. Correction of Errors | 27.1 Arithmetical errors will be rectified as follows. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit or subtotal price shall prevail. If there is a discrepancy between subtotals and the total price, the total price shall be corrected. If there is a discrepancy between words and figures, the amount in words will prevail. If a Bidder does not accept the correction of errors, its bid will be rejected and the value of its bid guarantee will be forfeited. If the Bidder that submitted the lowest evaluated bid does not accept the correction of errors, its bid guarantee shall be forfeited. |
| 28. Conversion to Single Currency | 28.1 To facilitate evaluation and comparison, the Contracting Entity (the Bid Evaluation and Analysis Committee) will convert all bid prices expressed in the various currencies in which they are payable to Iraqi Dinar at the selling exchange rate established for similar transactions by the Central Bank or a commercial bank in |

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| | Iraq. |
| | 28.2 The currency selected for converting bid prices to a common base for the purpose of evaluation to common currency in Iraqi Dinar as on the date of Bid opening. |
| 29. Evaluation and Comparison of Bids | 29.1 The Contracting Entity (the Bid Evaluation and Analysis Committee) will evaluate and compare the bids that have been determined to be substantially responsive, pursuant to ITB Clause 26. |
| | 29.2 For comparison for ranking purpose for evaluation, the comparison of the responsive Bids shall be carried out on Delivery Duty Paid (DDP) End-users' site basis / Free Delivery at End-users' Site basis. The quoted AMC price, if applicable as per Schedule of Requirements as per ITB Sub-Clause 14.3.3 for subsequent stipulated years after warranty period, The annual maintenance contract (AMC) price will also be calculated when comparing the bid prices and determining the order of the candidates. |
| | 29.3 for comparing/evaluating of Bids, and ranking of candidates, the following will be calculated: |
| | <ul style="list-style-type: none"> The prices of domestic (Medical Appliances) or those of foreign origin located within Iraq, as brought out in ITB Sub-Clause 14.3.1 and stipulated in Price Schedule in format in Section Fourth(2), |
| | <ul style="list-style-type: none"> The prices of (Medical Appliances) offered from abroad, as per ITB Sub-Clause 14.3.2 and as stipulated in Price Schedule in format in Section Fourth(3) |
| | <ul style="list-style-type: none"> The price of the annual maintenance contract (Annual Maintenance Contract - AMC), as mentioned in the attached price table in Section Fourth (4). In the event that the list of contracting requirements and paragraph 14.3.3 of the instructions to the bidders stipulate the need to secure maintenance for the years that follow a guarantee period Defects. |
| | 29.4 The rate of quoted Annual Maintenance Contract (AMC), if applicable, as per Section Sixth Schedule of Requirements, will be calculated for comparison/ranking purpose at (Net Present Value - NPV) considering discount rate as brought out in Bid Data Sheet. |
| | 29.5 If more than one schedule (or lot) has been specified in Section Sixth Schedule of Requirements, the Bidders are required to quote as stipulated in ITB Sub-Clause 14.7. Bids shall be evaluated for each schedules (or lots) separately. |
| | 29.6 Contracts may be awarded for each schedule (or group) separately, according to Article 8 of the instructions to bidders, and after applying the local preference in accordance with Article 30 of the instructions, who submitted the responsive and lowest-valued bid. To bidders. |
| 30. Margin of Preference | 30.1 Unless otherwise stated in Bid Data Sheet, a margin of preference shall be adopted for bids from local bidders. |

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| 31. Contracting Entity's Right to accept or reject all or any of the Bids | 31.1 The Contracting Entity reserves the right to accept or reject any bid, or to annul the bidding process and reject all bids at any time prior to contract award, without thereby incurring any liability to the affected Bidder or Bidders. In case of annulment, all bids submitted and specifically, bid securities, shall be promptly returned to the Bidders together with the fees of purchasing the Tender Documents as paid by the Bidders. |
| 32. Eligibility and Qualification of Bidder | 32.1 The Contracting Entity will determine to its satisfaction whether the Bidder that is selected as being qualified and having submitted the lowest evaluated responsive bid is qualified to perform the Contract satisfactorily, in accordance with the criteria listed in ITB Sub-clause 8.1. |
| | 32.2 The determination will evaluate the Bidder's financial, technical, and production capabilities. It will be based on an examination of the proving documents of the Bidder's qualifications submitted by the Bidder, pursuant to ITB Sub-Clause 8.1, as well as other information the Contracting Entity deems necessary and appropriate. |
| | 32.3 A successful qualification is a prerequisite for awarding the contract to a legally qualified bidder who has submitted the bid (unit / group) with the lowest cost (Lowest Evaluated Bid). If the qualification result is negative, this will lead to the rejection of the bidder of the bidder with the lowest cost of assessment; in this case, the contracting authority will undertake an evaluation process similar to the capabilities of the bidder with the lowest cost of the following, to ensure his ability to implement the contract in an acceptable manner. |

F. Award of Contract

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| 33. Award Criteria | 33.1 Pursuant to ITB Clauses 29, 30 and 32, the Contracting Entity will award the Contract to the eligible Bidder whose bid has been determined to be substantially responsive and has been determined to be the lowest evaluated bid, provided further that the Bidder is determined to be qualified to perform the Contract satisfactorily. |
| | 33.2 Before the contract award, the Contracting Entity has to verify from the competent authorities the validation of the substantial forms provided in the Bids including the Bid Gaurantee.. |
| 34. Contracting Entity's Right to amend Quantities at Time of Award | 34.1 The Contracting Entity reserves the right at the time of Contract award to increase by a percentage no more than 20% or decrease no more than 15% of the value of contract (as stipulated in Bid Data Sheet) without any change in unit price or other terms and conditions. |
| 35. Notification of Award | 35.1 Prior to the expiration of the period of bid validity, the Contracting Entity will notify the successful Bidder in writing or by cable, to be subsequently confirmed in writing by registered letter, that its bid has been accepted. At the same time, the Contracting Entity shall also notify all other Bidders of the results of the |

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| | awarding the bid, and shall publish the results as per the applicable Iraqi Laws identifying the bid and lot numbers and the following information: (1) name of each Bidder who submitted a Bid; (2) bid prices as read out at Bid Opening; (3) name and evaluated prices of each Bid that was evaluated; (4) name of bidders whose bids were rejected and the reasons for their rejection; and (5) name of the successful Bidder, and the Price and currency it offered, as well as the duration and summary scope of the contract awarded. |
| | 35.2 The notification of award will constitute the formation of the Contract (initial contract) subject to settlement of Appeal by unsuccessful bidder as per ITB Clause 36. |
| | 35.3 After submitting the contract signed by the successful bidder, attached to good performance gaurantee pursuant to ITB Clause 38, the Contracting Entity will promptly discharge the bid securities of the unsuccessful Bidders, pursuant to ITB Clause 17. |
| | 35.4 The Contracting Entity shall respond immediately and in writing to any bidder who may submit to the contracting authority inquiring about the reasons for not choosing his bid, after receiving the notification of the award decision. |
| 36. Complaints and Appeals | The mechanism used in considering the complaints of the Bidders is adopted in accordance with the instructions for the implementation of the general government contracts in force. |
| 37. Signing of Contract | 37.1 Promptly after the Contracting Entity notifies the successful Bidder that its bid has been accepted and after lapse of the standstill period and settlement of Appeals as per ITB Clause 36 (as the case may be), the Contracting Entity will send the Bidder the Contract Form provided in Section Ninth of the Tender Documents, incorporating all agreements between the parties and as indicated in Bid Data Sheet. The Contract has to be endorsed as indicated in Bid Data Sheet. |
| | 37.2 The winning bidder has to sign the contract agreement and return it to the Contracting Entity within the specified period. |
| | In case of an unsuccessful Bidder's appeal as per ITB 36, the Contracting Entity has still the right to proceed with the Contract with the Successful Bidder upon finding that the contract is fully compliant and it is in the public interest not to delay the commencement of the Contract and where the cancellation of the Contract will impose great damages on the public interest. |
| | (a) Notifying the competent court of its decision with all details and justifications. |
| | (b) Securing the consent of the competent court by submitting a signed commitment to compensate for any damages that may arise in the future due to the execution of the contract, if the judgment of the competent court is contrary to the decision of the Contracting Entity. |
| 38. Performance Gaurantee | 38.1 Within fourteen (14) days of the receipt of notification of award from the Contracting Entity, or twenty nine (29 days) as of the date of receiving the notification of the award decision issued |

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| | <p>by the Contracting Entity, the successful Bidder shall furnish the good performance guarantee in accordance with the Conditions of Contract. If rules and regulation of Republic of Iraq grants exemption to Public Companies of the state and public sectors, they are accordingly exempted of submitting the good performance guarantee.</p> |
| | <p>38.2 Upon the failure of the successful Bidder to submit the above-mentioned good performance guarantee or signing the Contract within the period specified under ITB 37.2, the Contracting Entity will send an official notice for the successful Bidder to sign the Contract within fifteen (15) days from receiving this notice, after this period the Contracting Entity has sufficient grounds to proceed with the annulment of the award and forfeiture of the bid guarantee of the here above declined Bidder. In that event the Contracting Entity may award the Contract to the next lowest evaluated Bidder whose offer is substantially responsive and is determined by the Contracting Entity to be qualified to perform the Contract satisfactorily. In that case the declined Bidder will be responsible for paying the difference in the bids prices in addition to forfeiture of the bid guarantee. These actions will be taken against the declined bidders provided they decline during their Bid validity.</p> |

Section Second: Bid Data Sheet (BDS)

The following specific data for the (Medical Appliances) to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions in the Bid Data Sheet (BDS) shall prevail over those in the ITB.

A. General

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| ITB 1.1 | <p>Name of Contracting Entity: <i>[insert: name of Contracting Entity]</i>.</p> <p>Type of (medical appliances): [insert Medical Appliances].</p> <p>Project / Tender: <i>[Name of Project or Tender]</i></p> <p>Tender Number: [Insert <i>Project/Tender reference number as listed in the Iraqi Budget</i>]</p> <p>IFB Number: <i>[insert IFB reference number]</i></p> <p>The number and identification of schedules (lots) comprising this IFB, detailed in Schedule of Requirements are : <i>[insert number of schedules(lots)]</i></p> <p><i>[Insert the year of the Budget as endorsed by competent authorities with the reference number]</i> for [name of Contracting Entity]</p> <p>The source of funding for the contract(s) is: <i>:[Source of Funding]</i></p> |
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B. Tender Documents

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| ITB 4.1 | <p>Contracting Entity’s address: <i>[insert Contracting Entity’s entire address, e-mail address, telephone, telex, and facsimile numbers; also insert a responsible contact person or officer to whom Bidder communications shall be addressed].</i></p> |
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| | <p>Requests for Clarification are to be hand delivered or sent by express courier and [insert“<i>will</i>” or “<i>will not</i>”] be accepted by cable.</p> <p>{<u>Note</u>: Do not adopt postal box or similar addresses }</p> |
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C. Preparation of Bids

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| ITB 6.3 | List of disqualified bidders is available on the website address of the Ministry of Planning. |
| ITB 7.2 | Insert the mechanism of certification required by the Contracting Entity. |
| ITB 7.3 (c) | <p>Eligibility Proving Documents of (Medical Appliances).</p> <p>In addition to the documents stated in Sub-Clauses 7.2 and 7.3 (a) and (b), the following documents shall be included with the Bid:</p> <p>(insert: <i>any other required eligibility proving documents for medical appliances</i>).</p> |
| ITB 7.4 | <p>[insert “is” or “is not”] required to register (Medical Appliances) in Iraq.</p> <p>[Note: If Iraq does not require registration of the (Medical Appliances), delete 7.4 (b) and 7.4.1 below and insert the following language:</p> <p>“ITB Sub-Clause 7.4 is inapplicable. The Applicable Law does not require registration of the (Medical Appliances) to be supplied under the Contract”.}</p> <p>Note: There shall be no forfeiture of a bid or a good performance guarantee based on the failure to obtain registration.</p> |
| ITB 7.4 (b) | <p>The winning bidder must, within a maximum time of the signing of the contract, submit the following required documents in order to register (medical appliances) that will be submitted under this contract : [insert: <i>Required registration documents or any other special conditions according to the relevant and applicable Iraqi laws</i>].</p> <p>[Note: In view of the potential delay incurred in the registration process from various government agencies, bidders are alerted to inquire about</p> |

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| | registration requirements and procedures as early as possible.} |
| ITB 7.4.1 | For the purpose of obtaining additional information about the requirements for registration, Bidders may contact [insert: Name of the person in charge at the Medical Appliances Registration Department of the Ministry of Health,. Phone & fax Nos. and e-mail address]. |
| ITB 11.1 | The language of the bid is: [select one or more than one language “Arabic”, “Kurdish” or “English”]. {If applicable insert : “In case of more than two permitted languages to Bid, the Bidders are permitted, at their choice, to submit their bids in one of the languages above indicated. Bidders shall not submit bids in more than one language”}. |
| ITB 12.1 | In addition to the documents stated in Paragraphs 12.1 (a) through (f), the following documents shall be included with the Bid [<i>insert list of documents:</i> Sample clause: Bidders who are not primary manufacturers shall provide evidence that their product conforms to the quality standards of the primary manufacturer and they have the capacity to supply the specified quantities. A “primary manufacturer” is defined as a company that performs all the manufacturing and formulating operations needed to produce medical appliances, including processing, blending, formulating, filling, packing, labeling, and quality testing. The Bidder shall furnish a certificate from the competent Regulatory Authority (RA) that the manufacturer is licensed to manufacture the (Medical Appliances) offered. |
| 14.4 | INCOTERMS® current edition shall be adopted (state the issuance year of the INCOTERMS® current edition) |

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| ITB 15.1 | b) Foreign currencies: [insert: “Up to any three currencies of any country, provided that the currency/currencies selected by the Bidder shall be from the list of currencies from which the Central Bank of Iraq quotes the rate of exchange to the Iraqi Dinar” or “Not applicable”.] |
| ITB 16.1 | <p>The bid validity period shall be [insert: <i>number (X)</i>] days after the deadline for bid submission, as specified below in reference to ITB Clause 20. Accordingly, each bid shall expire after [insert: <i>the actual date of the expiration of the bid validity period, i.e. day and date</i>]</p> <p>Bid Gaurantee shall be valid () days after the end of the bid validity period. Accordingly, a bid with a bid Gaurantee that expires before [insert: <i>the actual date of the expiration of the bid Gaurantee, i.e., day and date</i>] shall be rejected as nonresponsive.</p> <p><u>{Note: Many bids are rejected on the basis of simple errors in calculating the bid Gaurantee validity period. Accordingly, the Contracting Entity shall explicitly state above the date through which bid Gaurantee shall be valid.}</u></p> |
| ITB 17.1 | <p>{Note: If still applicable [insert: “As per the order of the provisional coalition authority (disbanded) No. 87 for the year 2004 or any superseding law and the instructions of implementing governmental contracts (exempt, not exempt), Public Companies of the state and public sector are exempted from submitting Bid Securities”]</p> <p><u>{If decided by the Contracting entity [insert: “The Contracting entity has decided not to ask for Bid Securities from the Decent Firms in accordance with the Iraqi applicable laws and regulations]} }</u></p> <p>The amount of the bid Gaurantee shall be <i>[insert a percentage between 1% - 3% of the estimated cost of the tender] Iraqi Dinar or its equivalent in a convertible currency from the list of currencies from which the</i></p> |

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| | <i>Central Bank of Iraq quotes the rate of exchange to the Iraqi Dinar.</i> |
| ITB 17.8 | If the Bidder defaults under the actions prescribed in subparagraphs (1) or (2) of this provision, the Contracting Entity will declare the Bidder in violation and will inform the Ministry of Planning and Economic Development to take the required actions against the violating Bidder (including Suspension or Black Listing) as per the applicable Iraqi laws. |
| ITB 18.2 | The written confirmation of authorization to sign on behalf of the Bidder shall consist of a Power of Attorney issued by the Bidder dated no more than 3 month or Company Registration Form (Certificate of establishment showing the authorized signatory). |

D. Submission of Bids

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| ITB 19.1 | (a) Bidders are ["entitled" or "not entitled"] to submit their bids by e-mail. (b) The number of copies of the tender required in addition to the original tender is: <i>[insert : (number of copies)]</i> . |
| ITB 19.2 (b) | For bid submission purposes, <u>the Contracting Entity's address is :</u> Attention: [insert _____] Street Address: [insert ____] Floor/Room number: [insert ____] City : [insert _____] ZIP Code: [insert _____] Country: [insert _____] |
| ITB 19.2 | <u>Insert (name and number of the Tender/IFB number)</u> |

| | |
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| (c) | <u>{Note: The Contracting Entity shall establish a clear and recognizable numbering system for its Contracts. Failure to do so typically results in misunderstandings in routine communications, review delays, and inadequate monitoring of overall project progress.}</u> |
| ITB 20.1 | Deadline for bid submission is: <i>[insert: day and date and time in hours and minutes and specifying if local time Baghdad-Iraq or else]</i> . |

E. Bid Opening and Evaluation

| | |
|----------|--|
| ITB 23.1 | <p>The bid opening shall take place at:</p> <p>Street Address: [insert _____]</p> <p>Floor/Room number: [insert ____ _____]</p> <p>City : [insert _____ _____]</p> <p>Country:[insert _____]</p> <p>Date: [insert _____ _____]</p> <p>Time: [insert _____]</p> <p><u>{Note: The date for the bid opening shall be the same as specified for the bid submission deadline, or shortly thereafter, to minimize possible complaints regarding insecure storage arrangements. In exceptional circumstances and where the Bid Opening cannot be held at the same time of the Bid Submission date and upon the approval of the Contracting Entity, the Bid Submission date may be set in the morning of the next working day in accordance with the applicable Iraqi Laws}</u></p> |
| ITB 30.1 | <p>[Insert: “applicable/Not applicable)</p> <p>“If the lowest responsive bid which fulfills the laid down Qualification Criteria offers foreign (Medical Appliances) as per ITB 29, then a</p> |

| | |
|----------|---|
| | Domestic preference will be given to the responsive bid offered by National Private Sector Factories of the Republic of Iraq provided that the national product price does not exceed that of the foreign product by %”.] |
| ITB 34.1 | Insert any exceptions or restrictions () |
| ITB 37.1 | <p>The Contract to be signed with the successful Bidder shall be written in the language in which the Bid was submitted, and which will be the language that shall govern the contractual relations between the Contracting Entity and the successful Bidder.</p> <p>The Contract shall be certified according to the procedures adopted in Iraq.</p> |
| ITB 38.1 | A good performance execution shall be submitted within (insert the number of days) from the date of issuance of the award letter and its official notification |

Section Third. Evaluation and Qualification Criteria

1. Evaluation Criteria

The Evaluation Criteria has been specified in Instructions to Bidders(ITB) in Section one and Bid Data Sheet (BDS) in Section Two.The specific data Bid Data Sheet (BDS) for the (Medical Appliances) to be procured shall complement, supplement, or amend the provisions in the Instructions to Bidders (ITB). Whenever there is a conflict, the provisions in the Bid Data Sheet (BDS) shall prevail over those in the ITB.

2. Qualification Criteria

A) Qualification requirements for Bidders are:

- Financial Capability: The Bidder shall furnish proving documents that it fulfills the following financial requirement(s): [(list the requirement(s)]
- Experience and Technical Capacity: The Bidder shall furnish proving documents to demonstrate that it fulfills the following experience requirement(s): [list the requirement(s)]
- The Bidder shall furnish proving documents to demonstrate that the Goods it offers meet the following usage requirement: [list the requirement(s)]

B) In addition to the above, the qualification criteria are:

1. Accurate technical specifications ...

These are the technical characteristics and scale of (Medical Appliances) required by the Contracting Entity and related services and their conformity with specifications, which facilitate the evaluation process of the bid and contain clear indicators and include details of the working environment conditions for these (medical appliances) such as (temperature, humidity, storage conditions, etc.) and the requirements of packaging, packing and enveloping

2. Final accounts

(Submitting the general budget audited by the legal auditors presenting the financial position of the previous years (), showing the financial efficiency and future profit forecast of the Bidder and endorsed by the auditor)

3. Cash flow

The Bidder shall provide the financial resources with the value of its submitted bid () according to the required bid currency.

4. Annual revenue

Minimum Annual Revenue Rate, the revenue of the Bidder is () for the works executed for the contracts completed or continuing during the years ()

5. Similar work (specialized experience)

It is the previous experience in the field of contracting as a supplier of (insert number of contracts) for years (insert number of years) at (insert amount(.

6. (insert any other criteria)

- Final accounts are required for the last two years prior to the date of Tender advertising. (In the absence of work carried out by companies in the last two years due to the financial crisis, final accounts will be submitted for the two years prior to 2014.

- Liquidity is defined as the clarification of financial capacity and the provision of cash flow, and its financial value varies according to size of the contracts (large, medium, small) of the estimated cost of the contract to be executed

Annual revenue is required according to the size of the contract (large, medium, small) and for the previous years ranging between (5-10).

Section Fourth. Bidding Documents

The Bidding Documents provided in this SSBD provide standard formats for a number of the key documents that the Contracting Entity and Bidders will exchange in the process of bidding.

{The Contracting Entity shall fill in the Forms with the needed information relevant to each procurement before launching the Bidding Process. The required place for writing this information is under the paragraphs written in Italic style and shaded in grey. Any notes provided to the Contracting Entity and It is in { } brackets which is underlined and shaded in yellow is for information only and shall be deleted before releasing the Tender Documents.}

The Bidder will fill in his part of the form where it is designated between brackets or_____.

The Bidders shall complete the Forms as indicated on the form, and submit them to the Contracting Entity.

1. Bid Submission Form.

2. Price Schedules for domestic (Medical Appliances) or goods of foreign origin available in Iraq.
3. Price Schedules for (Medical Appliances) to be imported from Abroad
4. Price Schedules for annual maintenance contracts after defects warranty period
5. Country of Origin Declaration Form
6. Manufacturer's Authorization Form.
7. Sample Form for Performance Statement

1. Bid Submission Form

Date: [insert: **date of bid**]

[**Contracting Entity to insert**: Tender Number: [insert number]]

Letter of Invitation Number: [insert number]]

To: [**Contracting Entity to insert**: **Name and address of Contracting Entity**]

Dear Sir or Madam:

Having examined the Tender Documents, including Addenda Nos. [insert numbers], the receipt of which is hereby acknowledged, we, the undersigned, offer to supply and deliver the (Medical Appliances) under the above-named Contract in full conformity with the said Tender Documents for the sum of:

| | | |
|-------------|---|---|
| | [insert: amount of “Iraqi Dinar” in words] | ([insert: amount of “Iraqi Dinar” in figures]) |
| Plus | [insert: amount of “US Dollar” in words] | ([insert: amount of “US Dollar” in figures]) |
| Plus | [insert: amount of “Euro” in words] | ([insert: amount of “Euro” in figures]) |

(hereinafter called “the Total Bid Price”) or such other sums as may be determined in accordance with the terms and conditions of the Contract. The above amounts are in accordance with the Price Schedules attached herewith and are made part of this bid.

2. We undertake, if our bid is accepted, to deliver the (Medical Appliances) in accordance with the delivery schedule specified in the [insert “Schedule of Requirements in Section Sixth” or “as quoted in Price Schedule in Section Sixth”] (the Bidder may select as appropriate clause).

3. We agree to all General Conditions of Contract in Section-SEVEN read in conjunction with the Special Conditions of Contract in Section-EIGHT.
4. If our bid is accepted, we undertake to provide an advance payment guarantee good performance guarantee in the form, in the amounts, and within the times specified in the Tender Documents.
5. We agree to abide by this bid, for the Bid Validity Period specified in Sub-Clause 16.1 of the Bid Data Sheet in Section Two and it shall remain binding upon us and may be accepted by you at any time before the expiration of that period.
6. Until the formal final Contract is prepared and executed between us, this bid, together with your written acceptance of the bid and your notification of award, shall constitute a binding Contract between us.
7. We understand that you are not bound to accept the lowest evaluated bid or any other bid that you may receive.
8. We agree to the following Eligibility Criteria:
 - (a) We have nationality from qualified countries as per ITB Sub-Clause-6.1 of Section one.
 - (b) We do not have conflict of interest in accordance with ITB Sub-Clause-6.1 (a) of Section one.
 - (c) We are not a Government-owned Entity in Republic of Iraq./ We are a Government-owned Entity in the Republic of Iraq and meet the requirement as per Sub-Clause 6.1(b) of Section one.
 - (d) We including any of our subcontractors or manufacturers for any part of the contract, have not been declared as ineligible by the Contracting Entity, under the Contracting Entity's country laws or official regulations or by an act of compliance with a decision of the United Nations Security Council.

(e) We have not been Black listed or Suspended by Ministry of Planning and declared as ineligible to bid during the period of time determined as per ITB Clause 6.3 of Section one.

9. We confirm that our website address is [*insert website address*] and our mail address is [*insert email address*], and that Mr. /Ms. [*insert name*] of Job Title [*insert job title*] and e-mail address [*insert e-mail address*] will be following up all matters relevant to any Clarifications.

Dated this [*insert: number*] day of [*insert: month*], [*insert: year*].

Signed: _____

Date: _____

In the capacity of [*insert: title or position*]

Duly authorized to sign this bid for and on behalf of [*insert: name of Bidder*]

2. Price Schedule for Medical Appliances of Foreign Origin Available in Iraq

| 1 | | 2 | | | | | 3 | 4 | 5 | | | | | 6 |
|-------------|----------|-------------------------------|---------------------|-------------------------|----------------------------------|----------------------------|------------------------------------|-------------------|---|---|--|---|---|---|
| Schedule No | Item No. | Brief Description of Goods ## | | | | | Quantity offered and physical unit | Country of Origin | Price per physical unit [Iraqi Dinar] (figure and in writing) | | | | | Total Price |
| | | Product (a) | Strength (b) | Dosages form (c) | Pharmacopeia Standard (d) | Unit Pack sizes (e) | | | Ex-factory/ex-warehouse/ex-show room/off-the shelf including packing and forwarding charges (a) | Sales and other taxes and duties payable if contract is awarded (b) | Inland transportation insurance loading/unloading and incidental costs till end-users site (c) | Incidental services as defined in schedule of requirement (d) | Price on DDP/free delivery at end-users e=(a+b+c+d) | Total Price on DDP/Free Delivery at End-users' site. (Iraqi Dinar) quantity X 5 (e) |
| (a). | (b) | | | | | | | | | | | | | |
| [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | | | | | | | | |
| | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | | | | | | | | |
| [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | | | | | | | | |

Grand Total of Bid price: [Iraqi Dinar] _____ (In figures) _____ (In words)

Delivery Period: _____ [Bidder may insert quoted delivery period] as per INCOTERMS® current edition _____ [Insert Incoterms].

Place: _____
Date: _____

Signature of Bidder _____
Name & Designation _____
Business address _____
Seal of the Bidder _____

Note: -
{Insert Medical Appliances}

3. The Price Schedule for (Medical Appliances) to be imported from abroad

| 1 | | | 2 | | 3 | 4 | 5 | | | | 6 |
|--------------|-----------------|----------|----------------------------------|-------------------|------------------------------------|-------------------|--|------------------------|--|--|--|
| National No. | Seller Code No. | Item No. | Brief Description of Goods ## | | Quantity offered and physical unit | Country of Origin | Price per physical unit [Bidder may insert permissible Currency] | | | | Total price on DDP at End-users' site along with Incidental Services 3*5(d) |
| | | | Product | Packing Unit Size | | | CIP price [Bidder may insert place of destination] | DDP at End-users' site | incidental Services as defined in Schedule of Requirements | DDP at End-users' site and Incidental Services | |
| (a) | (b) | (c) | (a) | (b) | | | (a) | (b) | (c) | (d) = [(b) + (c)] | |
| [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | | | | | | | |
| [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | | | | | | | |
| [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | | | | | | | |

Grand Total of Bid price: *[Bidders may insert permissible Currency]* _____ (In figures)
 _____ (In words)

Delivery Period: _____ *[Bidder may insert quoted delivery period]* as per INCOTERMS® current edition _____ *[Insert Incoterms]*.

Place: _____

Date: _____

Signature of Bidder _____

Name & Designation _____

Business address _____

Seal of the Bidder _____

Note: -

{Insert Medical Appliances}

4. Price Schedule for Annual Maintenance Contract (AMC) after Warranty Period##

| 1 | 2 | 3 | 4 | | | | 5 | 6. | 7. | 8. | |
|-------------------------|---------------------|----------------------------|------------------|---|----------------------|-------|----------------------|--|-------|---|--|
| Schedule No. (a) | Item No. (b) | Brief Description of Goods | Quantity Offered | AMC Cost for year wise after completion of 'n' year Warranty period. ## | | | | Total AMC Cost for 'n' Years = [4 (a)+ 4 (b)+.....4n] | Taxes | Total AMC for [Insert number of years##] with Taxes [5+6] | Grand Total AMC for [Insert number of years##] Years with Taxes [3x7] |
| | | | | 1 st Year | 2 nd Year | | n th Year | | | | |
| | | | | (a) | (b) | | (n) | | | | |
| <u>[Insert]</u> | <u>[Insert]</u> | <u>[Insert]</u> | | | | | | | | | |
| | <u>[Insert]</u> | <u>[Insert]</u> | | | | | | | | | |
| <u>[Insert]</u> | <u>[Insert]</u> | <u>[Insert]</u> | | | | | | | | | |

Grand Total of Bid price: *[Bidders may insert permissible Currency]* _____ (In figures)
 _____ (In words)

Place: _____ Signature of Bidder _____
 Name & Designation _____
 Date: _____ Business address _____
 Seal of the Bidder _____

{Insert number of years of **Annual Maintenance Contract** after warranty period required as per Schedule of Requirements}.

{If Training Services for the Iraqi Government Staff are needed under the Scope of this Tender (for Commissioning, Operation, etc), the Price Schedule has to include this Item and to identify if needed inside or outside Iraq with relevant justifications. The number of Staff involved, Training period, location of Training, scope of training, and programme shall be specified. If the location is outside Iraq, the item has to include all relevant Travelling requirements. The staff involved in this training shall be of relevant expertise and qualified and will be committed to work in the line of the training received. The same will be reflected in the Contract as well.}

Country of Origin Declaration Form

| Item | Description | Code | Country |
|------|-------------|------|---------|
| | | | |

A confirmed certificate of origin shall be issued for all imported Medical Appliances at the time of shipment

6. Manufacturer's Authorization

[The Bidder shall require the Manufacturer to fill in this Form in accordance with the instructions indicated. This letter of authorization shall be on the letterhead of the Manufacturer and shall be signed by a person with the proper authority to sign documents that are binding on the Manufacturer. The Bidder shall include it in its bid, if so indicated in the ITB.

Date: [insert: date (as day, month and year) of Bid Submission]

IFB No.: [insert: number of bidding process]

To: [insert: complete name of Contracting Entity]

WHEREAS We [insert: complete name of Manufacturer], who are official manufacturers of [insert: type of Medical Appliances manufactured], having factories at [insert: full address of Manufacturer's factories], do hereby authorize [insert: complete name of Bidder] to submit a bid the purpose of which is to provide the following Medical Appliances, manufactured by us [insert: name and or brief description of the Goods].

We hereby extend our full guarantee and warranty in accordance with Clause 15 of the General Conditions of Contract, with respect to the Medical Appliances offered by the above firm.

Signed: [insert: signature(s) of authorized representative(s) of the Manufacturer]

Name: [insert: complete name(s) of authorized representative(s) of the Manufacturer]

Title: [insert: title]

Duly authorized to sign this Authorization on behalf of: [insert: complete name of Bidder]

Dated on _____ day of _____, _____ [insert: date of signing]

7. Sample Form for Good Performance Statement

| Contract placed by | Order No and date | Order placed on | Description of Goods | Quantity | Date if completion of Contract | | Reasons of delay, if any | Are the Goods supplied satisfactory? |
|--------------------|-------------------|-----------------|----------------------|----------|--------------------------------|--------|--------------------------|--------------------------------------|
| | | | | | As per Contract | Actual | | |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
| | | | | | | | | |

Section Fifth. Qualified Countries

Regarding the eligibility of the Bidders for the provision of (Medical Appliances), Works and Services in Public Contracts financed by the Purchaser:

1. The Purchaser permits firms and individuals from all countries to offer (Medical Appliances), works and services for projects financed by the Government of Iraq. As an exception, firms of a Country or (Medical Appliances) manufactured in a Country may be excluded if:

(a) If the legislation or official instructions in force prohibit the Bidder's country from establishing commercial relations with the Purchaser state provided that the Purchaser is convinced that such prohibition will not prevent the fruitful competition for supplying goods or executing works.

(b) by an Act of Compliance with a Decision of the United Nations Security Council taken under Chapter SEVEN of the Charter of the United Nations, the Purchaser's country is forbidden to import any goods or pay any amounts to the Bidder's country.

2. For the information of bidders, at the present time firms, (Medical Appliances) and services from the following countries are excluded from this bidding:

a- With reference to paragraph: 1-(a) above.

b- With reference to paragraph: 1-(b) above.

PART TWO

List of contracting requirements

SCHEDULE OF REQUIREMENTS

Schedule: I List of (Medical Appliances), Delivery Schedule and Terms of Delivery:

| 1 | | 2 | | | | | 3 | 4 | 5 | 6 |
|--------------|----------|---|-----------------|--------------------|-------------------------------|-----------------------|----------------------------|--|---|---|
| Schedule No. | Item No. | Brief Description of Goods [Insert for Medical Appliances, Product, Strength, Dosage form, Pharmacopoeia Standard and Unit pack size. For Medical Equipment only Brief Description may be mentioned] | | | | | Quantity and physical unit | Bid Guarantee amount in Iraqi Dinar [Note Insert Bid Guarantee amount Schedule wise as one percent of Estimated Value] | Final Destination [Note End-users' address] | Required Delivery period as per ____ [insert Incoterms ® current edition] |
| (a) | (b) | Product (a) | Strength (b) | Dosage form (c) | Pharmacopoeia Standard (d) | Unit pack size (e) | | | | |
| [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] |
| | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] |
| [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] | [Insert] |

Table 2: Scope of Incidental Services:

[Insert: "Required Installation, Demonstration and onsite Training"]

Table 3: Annual Maintenance Contract (AMC):

[insert; The Bidder shall ensure and undertake to keep the equipment subject to the annual maintenance contract functioning properly and correctly at the rate of “x %” [insert such as 95% or 98%] UPTIME warranty during AMC Period shall be provided. Downtime period exceeding (100-x) % then the period of this contract shall be extended doubling the downtime period.]

Technical Specifications

{The Contracting Entity shall include information and specifications in the schedules of medical appliances, as necessary)}.

Summary of technical specifications of medical appliances.

| <u>Names of Medical Appliances</u> | <u>Technical Specifications</u> |
|------------------------------------|---------------------------------|
| 1. | |
| 2. | |
| 3. | |

Part three

Conditions of Contract

Section Seventh. General Conditions of Contract

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General Conditions of Contract

| | |
|----------------|--|
| 1. Definitions | In this Contract, the following terms shall be interpreted as indicated: |
| | (a) “The Contract” means the agreement entered into between the Contracting Entity and the Supplier, as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein. |
| | (b) “The Contract Price” means the price payable to the Supplier under the Contract for the full and proper performance of its contractual obligations. |
| | (c) “Day” means calendar day. |
| | (d) “Effective Date” means the date on which this Contract becomes effective pursuant to GCC Sub-Clause 6.2. |
| | (e) “End User” means the organization(s) where the (medical appliances) will be used, as named in the Schedule of Requirements. |
| | (f) “GCC” means the General Conditions of Contract contained in this section. |
| | (h) “The Purchaser” means the organization or the Contracting Entity purchasing the medical appliances, as named in the SCC. |
| | (i) “Registration Certificate” means the certificate of registration or other documents in lieu thereof establishing that the medical appliances supplied under the Contract are registered for use in the Iraq in accordance with the Applicable Law. |
| | (j) “SCC” means the Special Conditions of Contract. |
| | (k) “The Services” means those services ancillary to the supply of the medical appliances, such as transportation and insurance, and any other incidental services. |
| | (l) “Site,” where applicable, means the place or places belonging to the contracting party (the contracting entity) according to the list of contracting requirements. |
| | (m) “The Supplier” means the individual or firm supplying the medical appliances and Services under this Contract, as named in the SCC. |
| | (n) Fraud and Corruption : The Purchaser defines Fraud and Corruption as per the relevant applicable Iraqi laws. For the purposes of this Sub-Clause, the Purchaser will be guided further by the definition of the terms as set forth here below: |
| | (1) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party; |
| | (2) “fraudulent practice” is any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; |
| | (3) “collusive practice” is an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party; |

| | |
|--|--|
| | (4) “coercive practice” is impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party; |
| | (5) “obstructive practice” is |
| | (aa) deliberately destroying, falsifying, altering or concealing of evidence material to the investigation or making false statements to investigators in order to materially impede a Purchaser’s investigation into allegations of a corrupt, fraudulent, coercive or collusive practice in accordance with the applicable Iraqi laws; and/or threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation, or |
| | (bb) acts intended to materially impede the exercise of the Purchaser’s inspection and audit rights as per the applicable Iraqi laws and as per Sub-Clause 5.4. |
| 2. Application | 2.1 These General Conditions shall apply to the extent that they are not superseded by other provisions. |
| 3. Country of Origin | 3.1 For purposes of this Clause, “origin” means the place where the medical appliances were mined, grown, or produced, or from which the Services are supplied. the medical appliances are produced when, through manufacturing, processing, or substantial and major assembly of components, a commercially recognized new product results that is substantially different in basic characteristics or in purpose or utility from its components. |
| | 3.2 The origin of the medical appliances and Services is distinct from the nationality of the Supplier. |
| 4. Standards | 4.1 The medical appliances supplied under this Contract shall conform to the standards mentioned in the Technical Specifications and, when no applicable standard is mentioned, to the authoritative standards appropriate to the goods of country of origin. Such standards shall be the latest issued by the concerned institution. |
| 5. Use of Contract Documents and Information; Inspection and Audit | 5.1 The Supplier shall not, without the Purchaser’s prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Purchaser in connection therewith, to any person other than a person employed by the Supplier in the performance of the Contract. Disclosure to any such employed person shall be made in confidence and shall extend only as far as may be necessary for purposes of such performance. |
| | 5.2 The Supplier shall not, without the Purchaser’s prior written consent, make use of any document or information enumerated in GCC Sub-Clause 5.1 except for purposes of performing the Contract. |
| | 5.3 Any document, other than the Contract itself, enumerated in GCC Sub-Clause 5.1 shall remain the property of the Purchaser and shall be returned (all copies) to the Purchaser on completion of the Supplier’s performance under the Contract if so required by the Purchaser. |
| | 5.4 In accordance with the applicable Iraqi laws, the Supplier shall |

| | |
|--|--|
| | <p>permit the Purchaser through the competent authorities to inspect the Supplier's offices and/or the accounts and records of the Supplier and its sub-contractors relating to the performance of the Contract, and to have such accounts and records audited by auditors.</p> <p>The Supplier's attention is drawn to Clause 23, which provides, inter alia, that acts intended to materially impede the exercise of the Purchaser's inspection and audit rights provided for under this Sub-Clause constitute a prohibited practice subject to contract termination as well as to a determination of ineligibility pursuant to the Iraqi's prevailing sanctions procedures in Iraq.</p> |
| 6. Certification of (medical appliances) in Accordance with Laws of Republic of Iraq | 6.1 If required under the Applicable Law, (medical appliances) supplied under the Contract shall be registered for use in the Iraq. The Purchaser undertakes to cooperate with the Supplier to facilitate registration of the (medical appliances) for use in the Iraq. |
| | 6.2 Unless otherwise specified in the SCC, the Contract shall become effective on the date ("the Effective Date") that the Supplier receives written notification from the competent authority in Iraq that the medical appliances have been registered for use in Iraq. |
| 7. Patent Rights | 7.1 The Supplier shall indemnify the Purchaser against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the goods or any part thereof in Iraq. |
| 8. Good Performance Gaurantee | 8.1 Within 14 days, or twenty-nine (29) days including warning period in case of Complaints and Appeals raised by unsuccessful Bidders, of receipt of the notification of Contract award, the successful Bidder shall furnish to the Purchaser the Good Performance Gaurantee of 5% of Contract Price. If rules and regulations of Republic of Iraq grant exemption to Public Companies of State and Public Sector, they are accordingly exempted of submitting Good Performance Gaurantee. |
| | 8.2 The proceeds of the good performance gaurantee shall be payable to the Purchaser as compensation for any loss resulting from the Supplier's failure to complete its obligations under the Contract. |
| | 8.3 The good performance gaurantee shall be denominated in the currency or currencies of the Contractor in a freely convertible currency acceptable to the Purchaser and chosen from the list of currencies from which the Central Bank of Iraq quotes the rate of exchange to the Iraqi Dinar. The Gaurantee shall be an unconditional guarantee payable upon demand and it shall a bank guarantee issued by accredited bank in Iraq in accordance with the instructions of Central Bank of Iraq in the format provided in the Tender Documents. In the case of a Bank Guarantee furnished from the banks located outside Iraq, it shall be endorsed and countersigned by an accredited bank in Iraq by way of back-to-back counter guarantee |
| | 8.4 The good performance gaurantee will be discharged by the Purchaser and returned to the Supplier following the date of |

| | |
|----------------------------|--|
| | completion of the Supplier's performance obligations under the Contract, and expiry of the warranty period, the issuance of the satisfactory completion certificate and the final payment settlements |
| 9. Inspections and Tests | 9.1 The Purchaser or its representative shall have the right to inspect and/or to test the (medical appliances) to confirm their conformity to the Contract specifications. The SCC and the Technical Specifications shall insert what inspections and tests the Purchaser requires and where they are to be conducted. The Purchaser shall notify the Supplier in writing, in a timely manner, of the identity of any representatives retained for these purposes. |
| | 9.2 This article shall be according what is specified in the SCC |
| | 9.3 Nothing in GCC Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract. |
| 10. Packing | 10.1 The Supplier shall provide such packing of the (medical appliances) as is required to prevent their damage or deterioration during transit to their final destination, as indicated in the Contract. The packing shall be sufficient to withstand, without limitation, rough handling during transit and exposure to extreme temperatures, salt, and precipitation during transit and open storage. Packing case size and weights shall take into consideration, where appropriate, the remoteness of the (medical appliances)' final destination and the absence of heavy handling facilities at all points in transit. |
| | 10.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract, including additional requirements, if any, specified in the SCC or Technical Specifications, and in any subsequent instructions ordered by the Purchaser. |
| 11. Delivery and Documents | 11.1 Delivery of the Goods shall be made by the Supplier in accordance with the terms specified in the Schedule of Requirements. The details of shipping and/or other documents to be furnished by the Supplier are specified in the SCC. |
| | For Goods supplied from abroad: Upon shipment, the Supplier shall notify the Purchaser and the insurance company in writing the full details of the shipment including Contract number, description of the Goods, quantity, date and place of shipment, mode of transportation, and estimated date of arrival at place of destination. In the event of Goods sent by airfreight, the Supplier shall notify the Purchaser a minimum of forty-eight (48) hours ahead of dispatch, the name of the carrier, the flight number, the expected time of arrival, and the waybill number. The Supplier shall fax and then send by express courier the following documents to the Purchaser, with a copy to the insurance company: |
| | (1) three originals and two copies of the Supplier's invoice, showing Purchaser as [enter correct description of Purchaser for customs purposes]; the Contract number, Goods description, quantity, unit price, and total amount. Invoices shall be signed in original, stamped, or sealed with the company stamp/seal; one original and two copies |

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| | of the negotiable, clean, on-board through bill of lading marked “freight prepaid” and showing Purchaser as [enter correct name of Purchaser for customs purposes] and Notify Party as stated in the Contract, with delivery through to final destination as per the Schedule of Requirements and two copies of non-negotiable bill of lading, or three copies of railway consignment note, road consignment note, truck or air waybill, or multimodal transport document, marked “freight prepaid” and showing delivery through to final destination as per the Schedule of Requirements; |
| | (2) four copies of the packing list identifying contents of each package; |
| | (3) copy of the Insurance Certificate, showing the Purchaser as the beneficiary; |
| | (4) one original of the manufacturer’s or Supplier’s Warranty Certificate covering all items supplied; |
| | (5) one original and copies of the Supplier’s Certificate of country of Origin covering all items supplied and associated trading lists endorsed by the relevant Iraqi Commercial Agencies outside Iraq. For items originating from countries member of the Arab Common Market, the certificates of origin and associated trading lists endorsed by the competent country of origin authority shall be sufficient; |
| | (6) original copy of the Certificate of Inspection furnished to Supplier by the nominated inspection agency and six copies (where inspection is required); |
| | (7) any other procurement-specific documents required for delivery/payment purposes. |
| | For Goods from within Iraq: Upon or before delivery of the Goods, the Supplier shall notify the Purchaser in writing and deliver the following documents to the Purchaser: |
| | (1) two originals and two copies of the Supplier’s invoice, showing Purchaser, the Contract number; Goods’ description, quantity, unit price, and total amount. Invoices shall be signed in original and stamped or sealed with the company stamp/seal; |
| | (2) two copies of delivery note, railway consignment note, road consignment note, truck or air waybill, or multimodal transport document showing Purchaser as [enter correct name of Purchaser] and delivery through to final destination as stated in the Contract; |
| | (3) copy of the Insurance Certificate, showing the Purchaser as the beneficiary; |
| | (4) four copies of the packing list identifying contents of each package; |
| | (5) one original of the manufacturer’s or Supplier’s Warranty certificate covering all items supplied; |
| | (6) one original of the Supplier’s Certificate of country of Origin covering all items supplied and associated trading lists endorsed by |

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| | the relevant Iraqi Commercial Agencies outside Iraq. For items originating from countries member of the Arab Common Market, the certificates of origin and associated trading lists endorsed by the competent country of origin authority shall be sufficient; |
| | (7) original copy of the Certificate of Inspection furnished to Supplier by the nominated inspection agency and six copies (where inspection is required) |
| | (8) other procurement-specific documents required for delivery/payment purposes. |
| | Note: In the event that the documents presented by the Supplier are not in accordance with the Contract, then payment will be made against issue of the Acceptance Certificate, to be issued in accordance with SCC 9 (GCC 9) above. |
| | 11.2 For purposes of the Contract, “EXW,” “CIF,” “CIP,” “DDP” and other trade terms used to describe the obligations of the parties shall be governed by the international rules for interpreting trading terms as prescribed in the current edition of INCOTERMS® published by the International Chamber of Commerce, Paris. |
| | 11.3 Documents to be submitted by the Supplier are specified in the SCC. |
| 12. Insurance | 12.1 Unless otherwise specified in the SCC, The medical appliances supplied under the Contract shall be fully insured in a freely convertible currency of an qualified country, against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. |
| 13. Transportation | 13.1 Unless otherwise specified in the SCC, the responsibility for regulating the transport of medical appliances shall be as prescribed in the current edition of INCOTERMS® |
| 14. Incidental Services & AMC | 14.1 The Supplier shall provide such incidental services, if any, as are specified in the Schedule of Requirements. |
| | 14.2 The Supplier shall provide Annual Maintenance Contract (AMC), if any, after warranty period for number of years as specified in the Schedule of Requirements. |
| 15. Warranty of defects | 15.1 Warranty shall be as specified in the SCC. |
| 16. Payment | 16.1 The method and conditions of payment to be made to the Supplier under this Contract shall be as follows: |
| | If the supplier is a public entity (state company and public sector), the purchaser can raise the advance payment according to the instructions in force. |
| | a. Payment for Goods supplied from abroad: Payment of foreign currency portion shall be made in the following currency: [insert contract currency] in accordance with the following: |
| | (1) Upon shipment: the purchaser shall pay to the supplier [eighty (80)]% of the price of the goods to be shipped, by means of a confirmed and irrevocable letter of credit, which shall be opened for |

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| | <p>the supplier in a bank in his home country. Payment shall be made in accordance with the letter of credit after presenting the documents specified in GCC Clause 11;</p> <p>The Purchaser shall bear the costs of opening the letter of credit and the costs of amending it for reasons related to the Purchaser or caused by its fault or default. The supplier shall bear the costs of fixing the letter of credit and the costs of amending it.</p> |
| | <p>(2) On Delivery & Acceptance: the Purchaser shall pay to the supplier [twenty (20)]% of the total contract value within [thirty (30) days] of the date of receipt of the goods, after submitting a payment request (indicating the Purchaser's name, contract number, description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Acceptance Certificate issued by the Purchaser.</p> <p>The Purchaser shall pay to the supplier the payments in the currency agreed upon in the terms of the Contract within [thirty (30) days] from the date of submitting the payment request (indicating the Purchaser's name, contract number, description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Acceptance Certificate issued by the Purchaser.</p> |
| | B. Payments for goods supplied from within Iraq: |
| | Payments for goods and services supplied within Iraq shall be made in Iraqi Dinars according to the following: |
| | <p>(1) Advance Payment: The Purchaser shall pay to the supplier [insert percentage as per instructions) to local factories] after the submission of a payment request (indicating the Purchaser's name, contract number, description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) in addition to the advance payment guarantee in accordance with the document attached to Section EIGHT.</p> |
| | <p>(2) Upon receipt (acceptance): The Purchaser shall pay to the supplier [[insert percentage as instructed]% of the total contract value after submitting a payment request (indicating the Purchaser's name, contract number, description of payment and total amount, signed in original, stamped or sealed with the company stamp/seal) supported by the Acceptance Certificate issued by the Purchaser</p> |
| | {Please note that the percentages specified above can be adjusted to meet specific contracting requirements or approved business standards.} |
| | <p>16.2 The Supplier's request(s) for payment shall be made to the Purchaser in writing, accompanied by an invoice describing, as appropriate, the (medical appliances) delivered and Services performed, and by documents submitted pursuant to GCC Clause 11, and upon fulfillment of other obligations stipulated in the Contract.</p> |
| | <p>16.3 The Purchaser shall make the payments as soon as possible and according to the work contexts of the Ministry of Health and in accordance with the terms of the tender advertising. The special</p> |

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| | <p>conditions of the contract specify the procedures to be followed in case the purchaser fails to pay the due amounts.</p> <p>When applicable, the advance gaurantee shall be payable upon an on demand and unconditional guarantee issued by an accredited bank in Iraq as per the official publication of the Iraqi Central Bank. If the gaurantee is issued by a Bank located outside Iraq, the issuer shall have a correspondent accredited financial institution located in Iraq to make it enforceable.</p> <p>In the case of a bank guarantee, the gaurantee shall be submitted according to the formula adopted by banks.</p> |
| | 16.4 Payment will be made in the currency or currencies specified in the SCC. |
| | 16.5 Irrevocable non – transferable and unconfirmed Letter of Credit (LC) shall be opened by the Purchaser in accordance with the applicable Iraqi regulations. However, if the Supplier requests specifically to open confirmed LC, the extra charges would be borne by the supplier. If LC is required to be extended and/or amended for reasons not attributed to the Purchaser, the charges thereof shall be borne by the Supplier. However, if the LC is amended to make LC as per Contract requirements then charges thereof shall be borne by the Purchaser. |
| 17. Prices | 17.1 Prices charged by the Supplier for (medical appliances) delivered and Services performed under the Contract shall not vary from the prices quoted by the Supplier in its bid, prices shall be fixed and firm for the duration of Contract. |
| 18. Change Orders | 18.1 No changes shall be introduced to the contract unless for the circumstances (a-e) listed here below. In such case, the Change shall be limited to minimum and would be applicable for the following reasons: |
| | (a) If the change is not introduced, a major damage will result economically and technically; |
| | (b) If the change is not introduced, the (medical appliances) cannot be useful upon completion; |
| | (c) If the change will realize savings in the cost of the Project; |
| | (d) If the change does not result in a major modification to the pre-determined scope of supply; |
| | (e) If the change will result in earlier time for completion but not to result in inferior technical specification or scope of supply. |
| | The Purchaser may as per the applicable Iraqi laws, by a written order given to the Supplier pursuant to GCC Clause 31, make changes within the general scope of the Contract in any one or more of the following: |
| | (a) specifications, where (medical appliances) to be furnished under the Contract are to be specifically manufactured for the Purchaser; |
| | (b) the method of shipment or packing; |
| | (c) the place of delivery; and/or |
| | (d) the Services to be provided by the Supplier. |

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| | <p>18.2 If any such change causes an increase or decrease in the cost of, or the time required for, the Supplier's performance of any provisions under the Contract, an equitable adjustment shall be made in the Contract Price or delivery schedule, or both, and the Contract shall accordingly be amended.</p> <p>Any claims by the Supplier for adjustment under this clause shall be asserted within fifteen (15) days from the date of the Supplier's receipt of the Purchaser's change order.</p> |
| 19. Contract Amendment | 19.1 Subject to GCC Clause 17, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties. |
| 20. Assignment | 20.1 The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, to any other party in accordance with the legislation in force. |
| 21. Delays in the Supplier's Performance | 21.1 Delivery of the (medical appliances) and performance of Services shall be made by the Supplier in accordance with the time schedule prescribed by the Purchaser in the Schedule of Requirements. |
| | 21.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) shall encounter conditions impeding timely delivery of the (medical appliances) and performance of Services, the Supplier shall promptly notify the Purchaser in writing of the fact of the delay, its likely duration, and its cause(s). As soon as practicable after receipt of the Supplier's notice, the Purchaser shall evaluate the situation and may at its discretion extend the Supplier's time for performance, with or without arrears fines, in which case the extension shall be ratified by the parties by amendment of Contract. |
| | 21.3 Except as provided under GCC Clause 23, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of arrears fines pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Sub-Clause 21.2 without the application of arrears fines. |
| 22. Arrears fines(reduced per completion ratios) | 22-1 With the exception of the provisions stipulated in Article (22) of the general conditions of the contract, if the supplier fails to provide any or all of the medical appliances within the period (s) specified in the contract for that, the Purchaser shall, without prejudice to its other remedies under the Contract, deduct from the Contract Price, as arrears fines as a sum equivalent to delivered price of the delayed (medical appliances) Specified in the special conditions of the contract for each delay week or part of it until the actual delivery or execution. the Purchaser may consider termination of the Contract pursuant to SCC and according to the instructions and controls issued by the Ministry of Planning and any legislation in force .. |
| 23.withdrawal of work by the employer | 23.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may withdraw the work via written warning for fifteen (15) days in whole or in part in accordance with the Iraqi applicable laws which includes |

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| | incurring the difference of two allowances and in the following cases: |
| | (a) if the Supplier fails to deliver any or all of the (medical appliances) and related services within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 21; or |
| | (b) if the (medical appliances) do not meet the Technical Specifications stated in the Contract; or fail to replace it within thirty days of receiving a written notice by the purchaser. |
| | (c) if the Supplier fails to provide any registration or other certificates in respect of the (medical appliances) within the time specified in the Special Conditions. |
| | (d) if the Purchaser determines as per the applicable Iraqi laws that the Supplier has engaged in administrative corruption, fraudulent, collusive, coercive or obstructive practices in accordance with GCC Sub-Clause 1.1.n, in competing for or in executing the Contract, then the Purchaser may, after giving 15 days' notice to the Supplier, withdraw the work from the Supplier on this basis, and the provisions of Clause 22 shall apply as if withdrawal of work had been made under Sub-Clause 22.1. |
| | (e) if any employee of the Supplier be determined to have engaged in corrupt, fraudulent, collusive, coercive, or obstructive practice in accordance with GCC Sub-Clause 1.1.n during the purchase of the Goods, then that employee shall be removed. |
| | (f) if the Supplier fails to perform any other obligation(s) under the Contract. |
| | (j) If the supplier waived in part or wholly to another supplier or subcontractor with other supplier. |
| | (h) If parts of the supplied materials were awarded to another supplier without prior approval of the purchaser. |
| | 23.2 In the event the Purchaser withdraw the work in whole or in part, pursuant to GCC clause 22-1, the Purchaser may supply, upon such terms and in such manner as it deems appropriate, (medical appliances) or Services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar (medical appliances) or Services. |
| 24. withdraw the work for insolvency | The purchaser may at any time and after sending a written notice to the supplier for fifteen (15) days, may withdraw the work without resorting to the court in the following cases: |
| | a- If the supplier becomes bankrupt or insolvent or his assets were liquidated or submitted application of bankruptcy of insolvency. |
| | b- If a decision was issued by the competent court to put the supplier's funds at the hand of the liquidator. |
| | c- If the supplier made a reconciliation that protects him from bankruptcy or waived his right to the benefit of his creditor. |
| | d- If the supplier approved executing his contractual obligations under the supervision of control commission consisted of his creditors. |

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| | e- If seizure was conducted on the funds of the supplier by a competent court, this seizure may lead to the inability of the supplier to fulfill his contractual obligations. |
| | In this case, the withdrawal of work is done without compensating the supplier, and without prejudice to any right or compensations that are on the liability of the purchaser according to the contract or which results later. |
| 25. Force Majeure | 25.1 Notwithstanding the provisions of GCC Clauses 12, 21, and 22, the Supplier shall not be liable for forfeiture of its good performance guarantee, arrears fines, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure as much as the performance is affected by this condition. |
| | 25.2 For purposes of this clause, "Force Majeure" means an event beyond the control of the Supplier and not involving the Supplier's fault or negligence and not foreseeable. Such events may include, but are not restricted to, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes. |
| | 25.3 If a Force Majeure situation arises, the Supplier shall promptly notify the Purchaser in writing of such condition and the cause thereof. Unless otherwise directed by the Purchaser in writing, the Supplier shall continue to perform its obligations under the Contract as far as is reasonably practical and shall seek all reasonable alternative means for performance not prevented by the Force Majeure event. |
| 26. Termination for Convenience | 26.1 The Purchaser may terminate the Contract, in whole or in part, at any time for the following cases: |
| | (a) for general benefit. |
| | (b) in case there is no way to achieve the contract for any reason agreed which are outside the will of the two parties , which lead to impossible supplying . |
| | This is to be done after sending a written notice to the supplier to terminate the contract. |
| | 26.2 For the remaining (medical appliances), the Purchaser may elect: |
| | (a) to have any portion completed and delivered at the Contract terms and prices; |
| | (b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed (medical appliances) and Services and for materials and parts previously procured by the Supplier. |
| | 26.3 If the Contract is terminated for convenience of the Purchaser, the rights, duties and obligations of the parties, including all dues to the Supplier, shall be in accordance with the procedure set forth in Clause 26. |
| 27. Settlement | 27.1 If any dispute or difference of any kind whatsoever shall arise |

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| of Disputes | between the Purchaser and the Supplier in connection with or arising out of the Contract, the parties shall make every effort to resolve amicably such dispute or difference by mutual consultation. |
| | 27.2 If, after thirty (30) days, the parties have failed to resolve their dispute or difference by such mutual consultation, then either the Purchaser or the Supplier may give notice to the other party of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. |
| | 27.2.1 Any dispute or difference in respect of which a notice of intention to commence arbitration has been given in accordance with this Clause shall be finally settled by arbitration. Arbitration may be commenced prior to or after delivery of the (medical appliances) under the Contract. If the arbitration is not agreed upon, then the Iraqi law shall be applied for disputes resolution. |
| | 27.2.2 Arbitration proceedings shall be conducted in accordance with the rules of procedure specified in the SCC. |
| | 27.3 Notwithstanding any reference to arbitration herein, (a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and (b) the Purchaser shall pay the Supplier any monies due the Supplier. |
| 28. Limitation of Liability | 28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 7, |
| | (a) the Supplier shall not be liable to the Purchaser, whether in contract, tort, or otherwise, for any indirect or consequential loss or damage, loss of use, loss of production, or loss of profits or interest costs, provided that this exclusion shall not apply to any obligation of the Supplier to pay arrears fines to the Purchaser and |
| | (b) the aggregate liability of the Supplier to the Purchaser, whether under the Contract, in tort or otherwise, shall not exceed the total Contract Price. |
| 29. Contract Language | 29.1 The language of the Contract shall govern its interpretation. All correspondence and other documents pertaining to the Contract that are exchanged by the parties shall be written in the same language. |
| 30. Governing Law | 30.1 The Contract shall be interpreted in accordance with the Iraqi Law and guardianship of Iraqi judicial system. |
| 31. Notices (Notification notices) | 31.1 Any notice given by one party to the other pursuant to this Contract shall be sent to the other party in writing or by cable (the term "cable" is deemed to include electronic mail, telex, or facsimile) and confirmed in writing to the other party's address specified in the SCC. |
| | 31.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later. |
| 32. Taxes and Duties | 32.1 A Supplier supplying (medical appliances) from abroad shall be entirely responsible for all taxes, stamp, duties, license fees, and other such levies imposed outside Iraq in accordance with the legislations in force. |

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| | 32.2 A Supplier supplying (medical appliances) offered from within Iraq shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted (medical appliances) to the Purchaser. |
| 33. Withholding and lien in respect of sums claimed | 33.1 Whenever any claim or claims for payment of a sum of money arises out of or under the Contract of Republic of Iraq against the Supplier, the Purchaser shall be entitled to withhold and also have a lien to retain such sum or sums in whole or in part from the gaurantee, if any, deposited by the Supplier and for the purpose aforesaid, the Purchase shall be entitled to withhold the said cash gaurantee deposit or the gaurantee, if any, furnished as the case may be and also have a lien over the same pending finalization of any such claim. |
| | In the event of the banking gaurantee being insufficient to cover the claimed amount or amounts or if no gaurantee has been taken from the Supplier, the Purchaser shall be entitled to withhold and have lien to retain to the extent of the such claimed amount or amounts referred to supra, from any sum or sums found payable or which at anytime thereafter may become payable to the Supplier under the same Contract or any other Contract with the Purchaser or the Republic of Iraq, pending finalization of any such claim and that The Supplier shall have no claim for interest or damages whatsoever on this account or on any other ground in respect of any sum of money withheld or retained under this clause and duly notified as such to the Supplier. |

Section Eighth: Special Conditions of Contract

The following Special Conditions of Contract shall supplement the General Conditions of Contract. Whenever there is a conflict, the provisions herein shall prevail over those in the General Conditions of Contract. The corresponding clause number of the GCC is indicated in parentheses.

{Notes for completing the Special Conditions of Contract (SCC) are provided to the Contracting entity as needed in italics and shaded in grey. Where sample provisions are furnished, they are only illustrative of the provisions that the Purchaser shall draft specifically for each procurement.}

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| GCC 1.1 (h) | The Purchaser is: [<i>insert: name of Purchaser</i>]. (<i>Ministry/Department</i>) |
| GCC 1.1 (m) | The Supplier is: [<i>insert: name of Supplier</i>]. |
| GCC 6.2 | The Effective Date of the Contract is [<i>insert: date of Contract signing if either:</i> (1) the (medical appliances) have already been registered at the time of Contracting signing or (2) registration of the (medical appliances) is not a requirement under the Applicable Law. Otherwise, delete and insert <i>“NOT USED.”</i>] |
| GCC 9.1 | [Insert: any additional requirement related to the <i>inspections and tests</i>] |
| GCC 9.2 | 9.2.1. Said inspection and testing is for the Purchaser’s account. In the event that inspection and testing is required prior to dispatch, the (medical appliances) shall not be shipped unless a satisfactory inspection and quality control report has been issued in respect of those (medical appliances). |

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| | (b) The Supplier may have an independent quality test conducted on a batch ready for shipment. The cost of such tests will be borne by the Supplier. |
| | (c) Upon receipt of the (medical appliances) at place of final destination, the Purchaser’s representative shall inspect the (medical appliances) or part of the (medical appliances) to ensure that they conform to the condition of the Contract and advise the Purchaser that the (medical appliances) were received in apparent good order. The Purchaser will issue an Acceptance Certificate to the Supplier in respect of such (medical appliances) (or part of (medical appliances)). The Acceptance Certificate shall be issued at the earliest within [insert “ten (10) days” or “thirty (30) days”] of receipt of the (medical appliances) or part of (medical appliances) at place of final destination. |
| | 9.2.2. Where the Supplier contests the validity of the rejection by the Purchaser or his representative, of any inspection as required by 9.1 above conducted before shipment or at ultimate destination, whether based on product or packing grounds, a sample drawn jointly by the Supplier and Purchaser or his or her representative and authenticated by both, will be forwarded for umpire analysis within four weeks of the time the Supplier contests to an independent agency mutually agreed by the Purchaser and Supplier. The umpire’s finding, which will be promptly obtained, will be final and binding on both parties. The cost of umpire analysis will be borne by the losing party.”} |
| GCC 10.2 | [Insert: Any necessary additional requirements with respect to packing and marking or state that “Additional requirements are indicated in the Technical Specifications”.] |
| GCC 11.1 & 11.3 | Insert any other documents () |

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| 15.1 | <p>The supplier must guarantee and undertake that the goods provided under the contract are new, unused and of the latest style and include the most recent developments (or current developments) in design and materials, unless the contract specifies otherwise.</p> <p>The supplier must also warrant and pledge that the goods provided under the contract will not include defects (that may appear during the normal use of the goods in the conditions prevailing in Iraq) resulting from design or defects resulting from used materials or workmanship (except in cases where the buyer determines Designs or materials are required in the technical specifications) or defects due to any act performed by the supplier or any negligence thereof.</p> |
| 15.2 | <p>This guarantee shall be effective for a period of two: (1) [Enter No.] month from the date of receipt of the goods or any part thereof according to the case, at the final location specified in the contract and its acceptance by the buyer, or (2) [Enter No. (6 + *)] month from the date of commencing the shipment from the place of loading from the country of origin.</p> <p>Note: The value "x" shall be determined in months based on a market study. Generally, it is 12 months.</p> |
| 15.3 | <p>The purchaser shall send written notice of any claim that may arise as a result of this guarantee, as soon as possible.</p> |
| 15.4 | <p>Upon receipt of the supplier's notice to the buyer, he must within [enter the number of days, preferably 15 days] and with reasonable speed, to fix the defects or replace the defective goods or parts thereof, without any additional cost to the buyer, except, according to the case, the following costs The cost of the delivery inside Iraq and to the final destination, for goods or parts that have been repaired or replaced, from (EX-factory), (EX-Showroom) or (EX-Works).</p> |
| 15.5 | <p>If the supplier, after notifying him in writing, fails to remedy the defects within the time limit specified for that in the special conditions of the contract, then the buyer has the right to take the necessary measures to address the matter as needed, at the responsibility and expense of the supplier and without prejudice to any other rights or compensation that the buyer has under the contract.</p> |
| 15.6 | <p>Enter "Not applicable" or for essential and sensitive medical equipment / devices, enter the following: "[]" *% annually [enter for example 95% or 98%] during the UPTIME warranty period and in case the downtime period is exceeded during the annual maintenance contract, a percentage of (100- *), then the period of this contract must be extended to twice the value of the downtime periods. "]</p> |

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| GCC 16.3 | [insert: " The payment or payments will be settled during Days after receipt the result of laboratory tests according to the conditions announcement]. |
| GCC 22.1 | <p>Delay penalties will be (insert number) for each day</p> <p>Insert the equation ()</p> <p>The maximum amount of the delay penalties (insert number)% of the total price of the Contract</p> |
| GCC 27.2.2 | <p>The dispute resolution mechanism to be applied shall be as follows:</p> <p><i>(a) for contracts with foreign Supplier:</i></p> <p>“Any dispute, controversy, or claim arising out of or relating to this Contract, or breach, termination or invalidity thereof, shall be settled by arbitration in accordance with the UNCITRAL Arbitration Rules as at present in force.” or any rules specified by the valid legislations.</p> |
| | <p><i>(b) for contracts with Supplier national of Iraq:</i></p> <p>“In the case of a dispute between the Purchaser and a Supplier who is a national of Iraq, the dispute shall be referred to conciliation or arbitration in accordance with the laws of the Iraqi Laws and guardianship under the jurisdiction of the Iraqi judicial.”]</p> |
| GCC 31.1 | <p><i>[insert: the Purchaser’s address for notice purposes and if by cable is acceptable]</i></p> <p><i>[insert: the Supplier’s address for notice purposes and if by cable is acceptable, provided that it is followed with a written notice]</i></p> |

Section Ninth: Contract Documents

1. Form of Contract Agreement

THIS CONTRACT AGREEMENT is made

the [insert: number] day of [insert: month], [insert: year].

BETWEEN

(1) [*insert: Name of Purchaser*], a [*insert: description of type of legal entity, for example, an agency of the Ministry of of the Government of Iraq, or corporation incorporated under the laws of Iraq*] and having its principal place of business at [*insert: address of Purchaser*] (hereinafter called “the Purchaser”), and

(2) [insert: name of Supplier], a corporation incorporated under the laws of [insert: country of Supplier] and having its principal place of business at [insert: address of Supplier] (hereinafter called “the Supplier”).

WHEREAS the Purchaser invited bids for certain (medical appliances) and ancillary services, viz., [insert: brief description of (medical appliances) and services] and has accepted a bid by the Supplier for the supply of those (medical appliances) and services in the sum of [insert: contract price in words and figures] (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall constitute the Contract between the Purchaser and the Supplier, and each shall be read and construed as an integral part of the Contract:
 - (a) This Contract Agreement
 - (b) Special Conditions of Contract
 - (c) General Conditions of Contract

(d) Technical Requirements (including Technical Specifications)

(e) The Supplier's bid and original Price Schedules

(f) Schedule of Requirements

(g) The Purchaser's Notification of Award

(h) [Add here: any other documents]

3. In consideration of the payments to be made by the Purchaser to the Supplier as hereinafter mentioned, the Supplier hereby covenants with the Purchaser to provide the (medical appliances) and Services and to remedy defects therein in conformity in all respects with the provisions of the Contract.

4. The Purchaser hereby covenants to pay the Supplier in consideration of the provision of the (medical appliances) and Services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the Contract at the times and in the manner prescribed by the Contract.

For and on behalf of the Purchaser

Signed:

in the capacity of [insert: title or other appropriate designation]

in the presence of

For and on behalf of the Supplier

Signed:

in the capacity of [insert: title or other appropriate designation]

in the presence of

CONTRACT AGREEMENT

Dated the [insert: number] day of [insert: month], [insert: year]

BETWEEN

[Insert: name of Purchaser], “the Purchaser”

and

[insert: name of Supplier], “the Supplier”

(2) Letter of Acceptance Form

{letterhead paper of the Employer}

[insert number]

[insert date]

To: (Supplier name and address)

Subject / Acceptance of supply [insert name of the contract and identification number]

This is to notify you that your Bid dated [insert date] for execution of the [name of the contract and identification number, as given in the SCC] for the Contract Price [amount in words and figures], as corrected and modified in accordance with the Instructions to Bidders is hereby accepted by our Company.

You are hereby requested to furnish Good Performance Gaurantee, within 14 days of the receipt of this letter of acceptance, as stated in the SCC and GCC. A copy of the contract agreement with its general and special conditions is attached.

Yours faithfully,

Attachments

Contract Agreement Form

General Conditions of Contract

Special Conditions of Contract

Authorized Signature:

Name and Title of Signatory:.....

Name of Employer:.....