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# SECTORIAL STANDARD BIDDING DOCUMENT

Procurement of Health Sector Goods and  
Medical Equipment

**(Medical & Service Equipment)**

## **Invitation for Bid**

**Tender:** *[Ministry of Health / Environment/ The State Company. for  
Marketing Drugs & Medical Appliances(KIMADIA) ]*

**Project Reference for Bid :** *[ Equipment Supplying Contracts  
arranged according to the M.O.H Current Budget*

**Tender Subject .:** [ Continuous Positive Airway Pressure Units (CPAP)]

**Tender No.** 69/2018 /30]

**Date :** [ 5 / 6 /2018 ]

## **GENERAL INVITATION**

**(Medical & Service Equipment)**

**Tender No :** [ 69 /2018/30 ]

**Project Reference for Bid :** [ *Equipment Supplying Contracts  
arranged according to the M.O.H Current Budget* ]

**Tender Subject .:** [ Continuous Positive Airway Pressure Units (CPAP) ]

**Date :** [ 5/6 / 2018 ]

## Invitation for Bids (IFB)

**Tender Subject:** [ Continuous Positive Airway Pressure Units (CPAP) ]

**Tender No.:** [69 /2018 / 30 / M.O.H Current Budget.]

**IFB Number:** [ 30 ]

The [Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances(KIMADIA) ] now invites sealed bids from eligible bidders for supply of [Continuous Positive Airway Pressure Units(CPAP)]QTY(374).<sup>.1</sup>

2. Bidding will be conducted through the Open Tender (OT) procedures and is open to all bidders from Eligible Countries as defined in the Bidding Document.<sup>1</sup>

3. Interested eligible bidders may obtain further information from [Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances (KIMADIA) / 5<sup>th</sup> floor / MOH building , e-mail : [dg@kimadia.iq](mailto:dg@kimadia.iq) ] and inspect the bidding documents at the address given below & official from [8:30 a.m. till 2:30 p.m].

4. Bidders must fulfil qualifications requirements including: .[ will be dependable ] Margin of medical goods for the domestic bidders. The additional details have been defined in bid documents ( see article no. 30/ domestic preference from Instructions to Bidders & article no. 30 / Bid Data Sheet (BDS) for the goods & medical equipment) .

5.A complete set of Bidding Documents in [English & Arabic ] may be purchased by interested bidders on the submission of a written application to the address below and upon payment of a non-refundable fees<sup>2</sup> [**Tenders will be sold at the state company for marketing drugs and medical appliances (Kimadia)/ financial department / 6<sup>th</sup> floor , for the amount of one million & five hundred & ninety five IRAQI DINARS) for the offer values one million or less and (two million & five hundred & ninety five IRAQI DINARS for the offer value more than one million dollar, otherwise the offer will be neglected.**]

- offers which are delivered by DHL , the bidder should pay the A/M amount & it will be accepted after closing date on condition that will be before starting studying the offers , otherwise , the offer will be neglected.

- the bidder has the right to submit the former purchase voucher in re-invitation (tender ) with its documents In case the prices have been amended ,the bidder will pay the differences

in prices in case the prices are increasing & should attached the offers with the first & second vouchers.

- The method of payment will be [Cash ]. The Bidding Documents will be sent by [insert delivery procedure].

6. Bids must be delivered to the address below at or before [2:30 a.m. and 25 / 6 / 2018 ]. Late bids will be rejected. Bids will be opened in the presence of the bidders' representatives who choose to attend in person [or on-line] to the address below at [ 26 / 6 / 2018]. All bids must be accompanied by a Bid Security (8,519.72 \$).

7. The address referred to above is: [ Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances (KIMADIA) / 6th floor / receiving & opening offers committee / Bab Al-Moa'adham- Baghdad, Iraq]

TEL: 4157667

Mobil No. 07705419074

Operator No.4158401,5,7,8

Web.site : WWW.KIMADIA.iq , e-mail : Dg@kimadia.iq

Contracting Entity : Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances (KIMADIA)

Contracting Authority: Ph.Ahmmed Hameed Yousif

Title: [Deputy General Manager /

Signature: [ ]

Date: [ ]

**PART 1**

**BIDDING PROCEDURES**

**Section I. Instructions to Bidders**

**Instructions to Bidders**

**A. INTRODUCTION**

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<b>1. Scope of Bid</b>	<p>1.1 The Contracting Entity, as specified in the <b>Bid Data Sheet (BDS)</b> and in the <b>Special Conditions of Contract (SCC)</b>, invites bids for the supply of Goods (pharmaceuticals, vaccines, contraceptives, or medical equipment) as specified in the <b>Bid Data Sheet</b> and <b>Schedule of Requirements</b>.</p> <p>1.2 Throughout these bidding documents, the terms “writing” means any typewritten or printed communication, including letters delivered by hand, telex, and facsimile transmission, and “day” means calendar day. Singular also means plural.</p>
<b>2. Fraud and Corruption</b>	<p>2.1 The Contracting Entity 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. In pursuance of this policy, the Contracting Entity:</p> <p>(a) defines Fraud and Corruption as per the relevant applicable Iraqi laws. For the purpose of this provision, the Contracting Entity will be guided further by the definition of the terms as set forth here below:</p>
	<p>(i) “corrupt practice” is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;</p> <p>(ii) “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;</p>
	<p>(iii) “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;</p> <p>(iv) “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</p>

	actions of a party;
	<p>(v) “obstructive practice” is</p> <p>(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 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>(bb) acts intended to materially impede 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) 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) will sanction a firm or individual in accordance with the applicable Iraqi laws, including declaring ineligible, either indefinitely or for a stated period of time, to be awarded contract if it at any time it is determined by the competent Iraqi authorities 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> <p>(d) 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 Iraq Laws.</p>

## B. THE BIDDING DOCUMENTS

<b>3. Content of Bidding Documents</b>	3.1 The Bidding Documents are those stated below and should be read in conjunction with any addendum issued in accordance with ITB Clause 5:
	<div style="display: flex; flex-direction: column; gap: 0.5em;"> <div>Section I. Instructions to Bidders (ITB)</div> <div>Section II. Bid Data Sheet (BDS)</div> <div>Section III. Evaluation and Qualification Criteria</div> <div>Section IV. Bidding Forms</div> <div>Section V. Eligible Countries</div> <div>Section VI. Schedule of Requirements</div> <div>Section VII. General Conditions of Contract (GCC)</div> <div>Section VIII. Special Conditions of Contract (SCC)</div> <div>Section IX. Contract Forms</div> </div>
	3.2 The “Invitation for Bids” does not form part of the Bidding Documents..
<b>4. Clarification of Bidding Documents</b>	<p>4.1 A prospective Bidder requiring any clarification of the Bidding Documents shall contact the <b>Contracting Entity</b> in writing or by cable (the term “cable” is deemed to include electronic mail, telex, or facsimile) at the <b>Contracting Entity’s</b> address indicated in the <b>Bid Data Sheet</b>. The <b>Contracting Entity</b> will respond in writing to any request for clarification received no later than <b>fourteen (14) calendar days</b> prior to the deadline of submission of bids. Copies of the Contracting Entity’s response shall be sent to all prospective Bidders who have purchased the Bidding Documents, including a description of the inquiry but without identifying its source.</p> <p>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.</p>
<b>5. Amendment of Bidding Documents</b>	5.1 At any time prior to the deadline for submission of bids, the <b>Contracting Entity</b> may amend the Bidding Documents by issuing Addenda.

	<p>5.2 Any addendum thus issued shall be part of the Bidding Documents pursuant to ITB Sub-Clause 3.1 and shall be communicated in writing to all purchasers of the Bidding 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.</p>
	<p>5.3 To give prospective Bidders reasonable time in which to take the amendment into account in preparing their bids, the <b>Contracting Entity shall extend</b>, 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 Contracting Entity shall advertise any extension of the deadline for bid submission in same media as was done for the Short Procurement Notice of this tender.</p>

## C. PREPARATION OF BIDS

<b>6. Eligibility</b>	<p>6.1 This bidding process is <b>open to qualified firms from any Eligible country as specified in Section - V. The Firms may be excluded from bidding if:</b></p>
	<p>(a) 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 :</p> <ul style="list-style-type: none"> <li>(i) they have a controlling partner in common; or</li> <li>(ii) they receive or have received any direct or indirect subsidy from any of them; or</li> <li>(ii) they have the same legal representative for purposes of this bid; or</li> <li>(iii) 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</li> </ul>



	<p>(iv)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</p> <p>(v) a firm has been engaged by the Contracting Entity - or a Purchasing Agent that has been duly authorized to act on behalf of the Contracting Entity - to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the Goods described in these Bidding Documents. Or</p>
	<p>(b) Government-owned entities in the Republic of Iraq, if they cannot establish that they (i) are legally and financially autonomous, (ii) operate under the principles of commercial law, and (iii) are not dependent agencies of the Contracting Entity.</p>
	<p>6.2 Staff of the Government and Public Sector cannot participate directly or indirectly in Public Tenders</p>
	<p>6.3 A firm declared Black listed or Suspended by the competent authorities shall be ineligible to bid during the period of time determined. A list in this regard is available on the website <b>specified in BDS</b>.</p>
<p><b>7. Documents Establishing Eligibility of Goods and Services and Conformity to Bidding Documents</b></p>	<p>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 Health Sector Goods and Medical Equipment and services to be supplied under the Contract.</p> <p>7.2 The documentary evidence of the eligibility of the Goods and Services shall consist of a statement in the Price Schedule of the country of origin of the Goods and Services 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; such an approval is waived for items of certified Arab origin.</p>
	<p>7.3 The documentary evidence of conformity of the Goods and Services as <b>specified in Section VI Schedule of Requirements</b> may be in the form of literature, drawings, and data and shall consist of:</p>
	<p>(a) a detailed description of the essential technical and performance characteristics of the Goods;</p>

	<p>(b) an item-by-item commentary on the Contracting Entity's Technical Specifications demonstrating substantial responsiveness of the Goods and Services to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications;</p>
	<p>(c) any other procurement-specific documentation requirement as stated in the <b>Bid Data Sheet</b>.</p>
	<p>7.4 Unless the <b>Bid Data Sheet</b> stipulates otherwise, the Goods to be supplied under the Contract shall be registered with the competent authority in Iraq. A Bidder who has already registered its Goods by the time of bidding should 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:</p> <p>(a) a copy of the Registration Certificate of the Goods for use in the Iraq.</p> <p>OR, if such Registration Certificate has not yet been obtained,</p> <p>(b) Evidence establishing to the Contracting Entity's satisfaction that the Bidder has complied with all the documentary requirements for registration as specified <b>in the Bid Data Sheet</b>.</p> <p>(c) it is permitted to take exception by the health minister.</p> <p>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 <b>Bid Data Sheet</b>.</p> <p>7.4.2 (a): If the Goods 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.</p> <p>(b) : minister of health has the right to take exception for the winner bidder from submitting registration certificate at the time of signing contract.</p>

	<p>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.</p>
<b>8. Qualifications of the Bidder</b>	<p>8.1 The Bidder shall provide documentary evidence to establish to the Contracting Entity's satisfaction that:</p>
	<p>(a) the Bidder has the financial, technical, and production capability necessary to perform the Contract, meets the Qualification Criteria <b>specified in Section III Evaluation and Qualification Criteria</b>.</p>
	<p>(b) in the case of a Bidder offering to supply Goods, 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 Goods to supply the Goods in Iraq as per format of Manufacturer's Authorization Form in Section IV;</p>
	<p>(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</p>
<b>9. One Bid per Bidder</b>	<p>9.1 A firm shall submit only one bid as an individual Bidder and in accordance with ITB 6.1.a.</p>

<b>10. Cost of Bidding</b>	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.
<b>11. Language of Bid</b>	11.1 The bid, as well as all correspondence and documents relating to the bid exchanged by the Bidder and the Contracting Entity, shall be written in the language specified in the Bid Data Sheet. Supporting documents and printed literature furnished by the Bidder may be in another language provided they are accompanied by an accurate translation of the relevant passages in the language specified, in which case, for purposes of interpretation of the Bid, the translation shall govern.
<b>12. Documents Constituting the Bid</b>	12.1 The bid submitted by the Bidder shall comprise the following:
	<ul style="list-style-type: none"> <li>(a) duly filled-in Bid Form and Price Schedule, in accordance with the forms indicated in Section IV;</li> <li>(b) original form of bid security in accordance with the provisions of ITB Clause 17 (Bid Security);</li> <li>(c) written power of attorney authorizing the signatory of the bid to commit the Bidder;</li> <li>(d) documentary evidence establishing to the Contracting Entity's satisfaction, and in accordance with Documents required as per ITB Clause 7 and that they conform to the Bidding Documents;</li> <li>(e) documentary evidence establishing to the Contracting Entity's satisfaction, and in accordance with Qualification of the Bidder as per ITB Clause 8 that the Bidder is qualified to perform the Contract if its bid is accepted.</li> <li>(f) Bidder's voucher of purchasing the Bidding Document.</li> <li>(g) if applicable as per ITB Sub-clause 8.1(b), Manufacturer's Authorization Form as per format in Section IV</li> <li>(h) <b>Bidder's voucher of purchasing the Tender Document.</b> Any other required document shall be <b>specified in the Bid Data Sheet.</b></li> </ul>

<b>13. Bid Form</b>	<p>13.1 The Bidder shall complete the Bid Form and the appropriate Price Schedule <b>provided under Section – IV</b> indicating the Goods to be supplied, a brief description of the Goods, their country of origin, quantity, and prices.</p>
<b>14. Bid Prices and Discounts</b>	<p>14.1 The Bidder shall quote their prices as per format of Price Schedule provided under <b>Section IV</b> all the specified components of prices shown therein. All the columns shown in the Price Schedule should be filled up as required. If any column does not apply to a Bidder, same should be clarified as “NA” (means Not Applicable) by the Bidder.</p> <p>14.2 The quoted prices for goods offered for domestic goods or goods of foreign origin located in Iraq shall be quoted in the Price Schedule given under <b>Section IV</b> (2). The quoted prices for goods to be imported from abroad, shall be quoted in the Price Schedule given under <b>Section IV</b> (3).</p> <p>14.3 While filling up the columns of the Price Schedule, the following aspects should be noted for compliance:</p> <p>14.3.1 For domestic goods or goods of foreign origin located in Iraq, the prices under column 5 in the corresponding Price Schedule in at <b>Section IV</b> (2) shall be entered separately in the following manner:</p> <p style="padding-left: 40px;">Column 5 (a): The price of goods, quoted ex-factory/ ex-showroom/ ex-warehouse/ off-the-shelf, as applicable, including all taxes and duties like Sales Tax, Custom Duty, Excise Duty etc. already paid or payable on the components and raw material used in the manufacture or assembly of the goods quoted ex-factory etc. or on the previously imported goods of foreign origin quoted ex-showroom etc. This will also include charges towards Packing &amp; Forwarding,</p> <p style="padding-left: 40px;">Column 5(b): Any sales and other taxes and duties like Excise Duty, Sales Tax etc., which will be payable on the goods in Iraq if the Contract is awarded;</p> <p style="padding-left: 40px;">Column 5(c): Inland Transportation, Insurance, Loading/ Unloading and other incidental costs till to delivery of the goods to their final destination as specified in the Schedule of Requirements.</p> <p style="padding-left: 40px;">Column 5(d): The Price of Incidental Services including installation, demonstration and onsite training at End-users’ site, if applicable, as mentioned in Schedule of Requirements.</p>

	<p>14.3.2 For goods offered from abroad, the prices under Column 5 in the corresponding Price Schedule as per format in <b>Section IV (3)</b> shall be entered separately in the following manner:</p> <p>Column 5(a): The price of goods quoted CIP at port/airport of destination;</p> <p>Column 5(b): The price of goods quoted DDP (Delivery Duty Paid) at End-user site in Iraq as specified in the Schedule of Requirements.</p> <p>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;</p> <p>14.3.3 For Medical Equipment, Annual Maintenance Contract (AMC) at End-users' site for the stipulated years after warranty period in the Price Schedule as per format in <b>Section IV (4)</b>, 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, <b>as specified in Section VI Schedule of Requirements</b> should 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.</p>
	<p>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 the International Chamber of Commerce, Paris.</p>
	<p>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.</p>

	<p>14.7 If more than one schedule (or lot) has been <b>specified in Section VI</b> Schedule of Requirements, these Bidding 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) must be listed and priced separately in the Price Schedules. Bids shall be evaluated for each schedule (or lot) separately.</p>
<b>15. Currencies of Bid</b>	<p>15.1 Prices shall be quoted in the following currencies:</p> <ul style="list-style-type: none"> <li>(a) The Bidder shall express its prices for such goods to be supplied from Iraq in the Iraqi Dinar.</li> <li>(b) The Bidder may express the bid price of the Goods to be supplied from abroad as indicated in the <b>Bid Data Sheet</b>.</li> </ul>
<b>16. Period of Validity of Bids</b>	<p>16.1 Bids shall remain valid for the period stipulated in the <b>Bid Data Sheet</b> after the date of bid submission specified in ITB Clause 20. A bid valid for a shorter period shall be rejected by the Contracting Entity as nonresponsive.</p>
	<p>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 security. 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 security for the period of the extension.</p>
<b>17. Bid Security</b>	<p>17.1 The Bidder shall furnish as part of its bid a bid security in the form of an unconditional guarantee and payable upon first demand and in any of the following modes:</p> <ul style="list-style-type: none"> <li>(a) a bank guarantee as per format in <b>Section IV</b> ; or</li> <li>((b) a cashier's or certified check; or</li> <li>(c) or any mode depended by the contracting entity in data sheet.</li> </ul> <p>The amount of the Bid Security shall be as stipulated <b>in the Bid Data Sheet</b> and in the <b>Schedule of Requirements in Section VI</b>.</p>
	<p>17.2 The bid security shall be addressed to the Contracting Entity stating the number and title of the IFB and shall remain valid for a</p>

	period of 28 days beyond the validity period for the bid, and beyond any extension subsequently requested under Sub-Clause 16.2.
	17.3 The bid security shall, at the Bidder's option, be in the form of either 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 Bidding Documents or certified check or any mode depended by the contracting entity in data sheet.. In the case of Bank Guarantee furnished from the banks outside Iraq, it should be endorsed and countersigned by accredited bank in Iraq by way of back-to-back counter guarantee.
	17.4 Any bid not accompanied by an acceptable bid security shall be rejected by the Contracting Entity as nonresponsive excepting that of the producing drugs company or medical equipment manufacturing companies which are cover by the valid exeption of the minister of health .
	17.5 Upon the approval of the Contracting Authority, 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 security of the successful Bidder will be returned when the Bidder has signed the Contract and furnished the required performance security.
	17.7 The bid security may be forfeited
	(a) if the Bidder withdraws its bid, 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:
	(i) sign the contract, or
	(ii) furnish the required performance security.
	(c) In the case of Complaint and Appeal as per Clause 36 by an unsuccessful Bidder and when this complaint or appeal is found by the competent authorities to be for false or unjustified reasons. The amount of damage resulting



	<p>from delaying the contract signature will be recovered from the Bid Security of the here above unsuccessful Bidder. However, such amount which forfeited from Bid Security which equal to the penalties value limited in accordance with the applicable Iraqi laws and procedures.</p>
	<p>17.8 If the bid security 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 <b>Bid Data Sheet</b> Sub-Clause <b>17.1</b>, and</p> <p>a) if such a Bidder withdraws its bid during the period of bid validity specified by the Bidder on the Bid Submission Form, except as provided in ITB Sub-Clause 16.2, or</p> <p>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 security in accordance with ITB Clause 38;</p> <p>the Contracting Entity may, if provided for in the <b>Bid Data Sheet</b>, declare the Bidder disqualified to be awarded a contract by the Contracting Entity and proceed with the administrative actions as stated in the <b>Bid Data Sheet</b>.</p>
<b>18. Format and Signing of Bid</b>	<p>18.1 The Bidder shall prepare an original and it is permitted to be as ( compact disk ) with the technical bid , while the financial bid should be submitted in one written original copy .</p>
	<p>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 a person or persons duly authorized to bind the Bidder to the Contract. The authorization shall be indicated as specified in the <b>Bid Data Sheet</b> by those legally authorized to signed, 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. Prices shall be incorporated by the Bidder in words and figures as required in the Price Schedules. Any other requirement is specified in the <b>Bid Data Sheet</b>.</p>

	18.3 The Bid shall contain no interlineations, erasures, or modifications to the Bidding Documents, except to correct errors made by the Bidder in preparing the Bid Forms and where accordingly such corrections should be signed and initialled by the authorised person or persons signing the bid.

## D. SUBMISSION OF BIDS

<b>19. Sealing and Marking of Bids</b>	19.1 Bidders may always submit their bids by express mail, express courier or by hand. The Bidder shall enclose the original and each copy of the bid in separate sealed envelopes, duly marking the envelopes as “ORIGINAL” or “COPY.” The envelopes containing the original and copies shall then be enclosed in stamped outer envelope.
	19.2 The inner and outer envelopes shall: <ul style="list-style-type: none"> <li>(a) bear the name and address of the Bidder and Bidder stamp on four corners;</li> <li>(b) be addressed to the Contracting Entity at the address given in the <b>Bid Data Sheet</b>;</li> <li>(c) bear the Tender, Tender number, and IFB number indicated in the <b>Bid Data Sheet</b>; and</li> <li>(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.</li> </ul>
	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.
<b>20. Deadline for Submission of Bids</b>	20.1 Bids must 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 <b>Bid Data Sheet</b> . 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 Bidding 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.
<b>21. Late Bids</b>	21.1 Any bid received by the Contracting Entity after the deadline for submission of bids prescribed in ITB Clause 20 will be rejected and returned unopened to the Bidder.
<b>22. Modification and Withdrawal of Bids</b>	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.
	<p>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:</p> <ul style="list-style-type: none"> <li>(a) The Bidder shall provide an original and the number of copies specified in ITB Sub-Clause 19.1 of any modifications to its bid, clearly identified as such, in two inner envelopes duly marked "BID MODIFICATION-ORIGINAL" or "BID SUBSTITUTION-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."</li> <li>(b) Other provisions concerning the marking and dispatch of bid modifications shall be in accordance with ITB Sub-Clauses 19.2 and 19.3.</li> </ul>
	<p>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:</p> <ul style="list-style-type: none"> <li>(a) be addressed to the Contracting Entity at the address named in ITB Sub-Clause 19.2 (b)</li> <li>(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</li> <li>(c) be accompanied by a valid written power of attorney authorizing the signatory of the withdrawal notice to withdraw the bid.</li> </ul>

	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 security, pursuant to ITB Sub-Clause 17.7.

## E. OPENING AND EVALUATION OF BIDS

<b>23. Bid Opening</b>	23.1 The Contracting Entity (Bid Opening Committee) will open all bids, including withdrawal notices and modifications, in public, in the presence of Bidders' representatives who choose to attend, at the time, on the date, and at the place specified in the <b>Bid Data Sheet</b> . Bidders' representatives shall sign a register as proof of their attendance.
	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.
	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 security, 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 except for late bids pursuant to Sub-Clause 21.1.  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>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, 23.3, and 23.6 and including in minimum the following information about: -</p> <ul style="list-style-type: none"> <li>-sealing and stamping of the envelopes;</li> <li>-bid prices ( unit price for each lot if it is available ) in addition to any conditional pricing or discounts based on other Bids;</li> <li>- marking (with the signature of the Chairman of Bids Opening Committee and the members) of any alteration, erasure, correction made by the Bidder on the prices schedules (while slashing un-priced items with horizontal lines);</li> <li>- Bidder's signature of the Bid Submission Form and other attached Bid Forms and of every page of the price schedules;</li> <li>-number of pages of each Bid;</li> <li>-any other relevant remarks and reservations made by the Bidder on the Bid;</li> <li>- 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.</li> </ul>
	<p>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 should be distributed to all Bidders who wish to retain its copy.</p>
	<p>23.8 All Bids' prices, technical specifications, and implementation periods will be officially placed on the Contracting Authority's bill board while stating that these are to be analysed and verified further.</p>
	<p>23.9 The Bids will be referred by an official report to the Bids Evaluation Committee according to the agreement of The Contracting Entity chairman.</p>

<b>24. Clarification of Bids</b>	<p>24.1 During evaluation of the bids, only the Contracting Entity (evaluation &amp; 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>
<b>25. Confidentiality</b>	<p>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.</p>
	<p>25.2 Any effort by the bidder to influence the Contracting Entity (evaluation &amp; 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.</p>
	<p>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 should do so in writing.</p>
<b>26. Examination of Bids and Determination of Responsiveness</b>	<p>26.1 The Contracting Entity (evaluation &amp; analysis committee ) will examine the bids to determine whether they are complete, whether any computational errors have been made, whether required Bid Securities have been furnished, whether the documents have been properly signed, and whether the bids are generally in order.</p>
	<p>26.2 The Contracting Entity (evaluation &amp; 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.</p>
	<p>26.3 Prior to the detailed evaluation, pursuant to ITB Clause 29, the Contracting Entity (evaluation &amp; analysis committee ) will determine whether each bid is of acceptable quality, is complete, and is substantially responsive to the Bidding Documents. For purposes of this determination, a substantially responsive bid is one that conforms to all the terms, conditions, and specifications of the Bidding Documents without material deviations, exceptions,</p>

	objections, conditionality, or reservations. A material deviation, exception, objection, conditionality, or reservation is one: (i) that limits in any substantial way the scope, quality, or performance of the Goods and related Services; (ii) that limits, in any substantial way that is inconsistent with the Bidding Documents, the Contracting Entity's rights or the successful Bidder's obligations under the Contract; and (iii) 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 (evaluation & 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.
<b>27. Correction of Errors</b>	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. If the Bidder that submitted the lowest evaluated bid does not accept the correction of errors, its bid security shall be forfeited.
<b>28. Conversion to Single Currency</b>	28.1 To facilitate evaluation and comparison, the Contracting Entity 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 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 submission.
<b>29. Evaluation and Comparison of Bids</b>	29.1 The Contracting Entity (evaluation & 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 (Annual Maintenance Contract) , if applicable as per Schedule of Requirements as per ITB Sub-Clause 14.3.3 for subsequent stipulated years after warranty period will also be added for comparison/ranking purpose for evaluation.

	<p>29.3 For domestic goods or goods of foreign origin located within Iraq, the various prices as brought out in ITB Sub-Clause 14.3.1 and stipulated in Price Schedule in format in <b>Section IV(2)</b>, and for goods offered from abroad, the various prices brought out in ITB Sub-Clause 14.3.2 and stipulated in Price Schedule in format in <b>Section IV(3)</b> will be loaded for comparison/ranking purpose for evaluation. In addition, Annual Maintenance Contract (AMC) price, if applicable as per Schedule of Requirements as per ITB Sub-Clause 14.3.3 for stipulated years after Warranty period in Price Schedule in format in <b>Section IV(4)</b> will be loaded for comparison/ranking purpose for evaluation.</p>
	<p>29.4 The rate of quoted Annual Maintenance Contract (AMC), if applicable, as per <b>Section VI Schedule of Requirements</b>, will be loaded for comparison/ranking purpose at Net Present Value (NPV) considering discount rate as brought out in <b>Bid Data Sheet</b>.</p>
	<p>29.5 If more than one schedule (or lot) has been specified in Section VI 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.</p>
	<p>29.6 The Contracts may be awarded Schedule wise to the lowest responsive Bidder who meets the laid down Qualification Criteria as per ITB Clause 8 subject to Margin of Preference, as per Clause- 30.</p>
<b>30. Margin of Domestic Preference</b>	<p>30.1 As not contrary to what specified in <b>Bid Data Sheet</b>. Margin of domestic preference will be depended for the domestic bidders.</p>
<b>31. Contracting Entity's Right to Accept Any Bid and to Reject Any or All Bids</b>	<p>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.</p> <p>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 Bidding Documents as paid by the Bidders.</p>
<b>32. Eligibility and Qualification of bidder</b>	<p>32.1 The Contracting Entity will determine to its satisfaction whether the Bidder that is selected as being eligible 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.</p>



	32.2 The determination will evaluate the Bidder's financial, technical, and production capabilities. It will be based on an examination of the documentary evidence 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 An affirmative Qualification of bidder determination will be a prerequisite for award of the contract to the eligible and lowest evaluated Bidder schedule wise. A negative determination will result in rejection of the Bidder's bid, in which event the Contracting Entity will proceed to the next-lowest evaluated Bidder to make a similar determination of that Bidder's capabilities to perform satisfactorily.

## F. AWARD OF CONTRACT

<b>33. Award Criteria</b>	<p>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.</p> <p>33.2 Before the award, the Contracting Entity has to verify from the competent authorities the validation of the substantial forms provided in the Bids including the Bid Security..</p>
<b>34. Contracting Entity's Right to Vary Quantities at Time of Award</b>	34.1 The Contracting Entity reserves the right at the time of Contract award to increase or decrease, by the percentage of 20% the quantity of goods and services beyond that originally specified in the Schedule of Requirements without any change in unit price or other terms and conditions.
<b>35. Notification of Award</b>	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 bidding, and shall publish the results as per the applicable Iraqi Laws identifying the bid and lot numbers and the following information: (i) name of each Bidder who submitted a Bid; (ii) bid prices as read out at Bid Opening; (iii) name and evaluated prices of each Bid that was evaluated; (iv) name of bidders whose bids were rejected and the reasons for their rejection; and (v) 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 subject to settlement of Appeal by unsuccessful bidder as per ITB Clause 36.
	35.3 Upon the successful Bidder's furnishing of the signed Contract Form and performance security 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 If, after notification of award, an unsuccessful Bidder wishes to ascertain the grounds on which its bid was not selected, which are not in pursuant to ITB Clause 36, it should address its request to the Contracting Entity. The Contracting Entity will promptly respond in writing to the unsuccessful Bidder.
<b>36. Complaints and Appeals</b>	Validation general government implementation contracts procedures represent the dependable criteria in viewing the complaints bidders.
<b>37. Signing of Contract</b>	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 <b>Section IX</b> of the Bidding Documents, incorporating all agreements between the parties and as indicated in <b>Bid Data Sheet</b> . The Contract has to be endorsed as indicated in <b>Bid Data Sheet</b> .
	37.2 the successful Bidder shall sign, date, and return the Contract Agreement to the Contracting Entity within the permitted period. In case of an unsuccessful Bidder's appeal as per ITB 36.2, 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. Nevertheless, the Contracting Entity has to notify the relevant Administrative Court of such a decision with all above justifications. The Contracting Entity has the authority to implement the Contract after providing to the approval of the relevant Administrative Court a signed commitment for

	compensating the future damages resulting from implementing the Contract in case the ruling of the relevant Administrative Court was unfavourable to its decision.
<b>38. Performance Security</b>	<p>38.1 Within fourteen (14) days of the receipt of notification of award from the Contracting Entity, or twenty nine (29 days) in case of complaints as per ITB 36.1, the successful Bidder shall furnish the performance security in accordance with the Conditions of Contract, using the Performance Security Form provided under Contract Forms in <b>Section IX</b> of. 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 Performance Security.</p>
	<p>38.2 Upon the failure of the successful Bidder to submit the above-mentioned Performance Security or sign 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 which the Contracting Entity has sufficient grounds to proceed with the annulment of the award and forfeiture of the bid security 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 security. These actions will be taken against the declined bidders provided they decline during their Bid validity.</p>

## SECTION II. BID DATA SHEET

### Bid Data Sheet (BDS)

The following specific data for the Goods 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

ITB 1.1	<p>Name of Contracting Entity: <i>[Ministry of Health / Environment/ The State Company. for Marketing Drugs &amp; Medical Appliances (KIMADIA) ]</i>.</p> <p>Name of authorized Purchasing Agent: <i>[ “none” ]</i>.</p> <p>Type of goods: <i>[ SUPPLYING OF EQUIPMENT ]</i>.</p> <p><b><u>Tender Subject:</u></b> <i>[ CPAP ]</i>.</p> <p><b><u>Tender Number:</u></b> <i>[ 69/2018/ 30 / M.O.H Current Budget]</i></p> <p><b><u>IFB Number:</u></b> <i>[ 30 ]</i></p> <p>The number and identification of schedules (lots) comprising this IFB is detailed in Schedule of Requirements are :</p> <p>Schedule No. ( 1 ), Schedule No. ( 2 ), Schedule No. ( 4 )</p> <p><i>[ the Federal Budget Year ..... ]</i> for <i>[Ministry of Health / Environment/ The State Company. for Marketing Drugs &amp; Medical Appliances (KIMADIA) ]</i>.</p> <p><i>[Ministry of Health / Environment/ The State Company. for Marketing Drugs &amp; Medical Appliances (KIMADIA) ]</i>.</p> <p>The source of funding for the contract(s) is: <i>financial ministry</i></p>
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#### B. THE BIDDING DOCUMENTS

ITB 4.1	<p>Contracting Entity's / duly authorized Purchasing Agent's address: <i>Baghdad,/ Bab Al-Moa'adham / Ministry of Health / (KIMADIA) / dg1@kimadia.iq , dg2@kimadia.iq , gen.relat@kimadia.iq , dg@kimadia.iq ] / TEL: 4157667,Mobil No. 07705419074</i></p> <p><i>Operator No.4158401,5,7,8</i></p> <p><i>Web.site : WWW.KIMADIA.IQ , e-mail : <a href="mailto:Dg@kimadia.iq">Dg@kimadia.iq</a></i></p> <p>Requests for Clarification are to be hand delivered or sent by mail</p>
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	<p>or by express courier and [“are accepted by cable.</p> <p>In addition to the instructions list to the bidders :</p> <ul style="list-style-type: none"> <li>- Date of holding the conference to answer the questions of the bidders will be on ( DAY: Wednesday ) DD. (20 /6 /2018 )</li> <li>..</li> <li>- Bidder address stated in the bid shall be dependable as as address for the corresponding , in case there is a change in this address , the bidder shall notice the contracting entity within 7 days from date of this change.</li> </ul>
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### C. PREPARATION OF BIDS

ITB 6.3	List of disqualified bidders is available on the following website address : <a href="http://WWW.mop.gov.iq">HTTP://WWW.mop.gov.iq</a>
7.2	Legalization of the origin certificates according to the governmental contracts execution instructions no. 2 , 2014.
ITB 7.3 (c)	<p>Documentation requirements for eligibility of Goods. In addition:n to the documents stated in Sub-Clauses 7.2 and 7.3 (a) and (b), the following documents should be included with the Bid:</p> <p><b>1.</b> The offers should contain a copy from all legalized and original authorizations by the producing company to the marketing ones also to present original and legalized copies to D.G.M.I &amp; General Relation Department including all above legalizations as mentioned in article (3) from special instruction concerning authorization letters .</p> <p><b><u>Notice :</u></b></p> <p>The original authorization should be sent and submitted to D.G.M.I &amp; General Relation Department before closing date .</p> <p><b>2.</b></p> <p>offers should be submitted with updated specification according to required recommended technical specification by WHO with height quality of aterials &amp; devices./ .</p>

	<p>3.</p> <p><i>the Goods to be supplied under the Contract must be licensed in the country of manufacture. Documentary evidence in the form of a certified copy of the license in the country of manufacturer shall accompany the bid.</i></p> <p>4.</p> <p>5. <i>For radiological equipment, necessary approvals of quoted model from regulating authorities in the country of manufacture and for importing in Iraq from regulating authorities in Iraq should be available and shall accompany the bid.]</i></p>
ITB 7.4	<p>Iraq [ <b><i>“does not”</i></b> ] require registration of Goods.</p> <p>{ <u>Note: If Iraq does not require registration of the Goods, delete 7.4 (b) and 7.4.1 below and insert the following language:</u></p> <p><b>“ITB Sub-Clause 7.4 is inapplicable. The Applicable Law does not require registration of the Goods to be supplied under the Contract”. }</b></p> <p><b>Note:</b> There shall be no forfeiture of a bid or a performance security based on the failure to obtain registration.</p>
8.	<p><b><i>-The bidders should register their companies in M.O.H</i></b></p> <p><b><i>-The seller has to register his company within one company from date of the awarding , on condition that it will not exceeding six months from date of its registering , otherwise , the dealing will be stopped with the seller.</i></b></p>
ITB 11.1	<p>The language of the bid is: <b><i>“Arabic” and/or “English”</i></b>].</p> <p>-</p> <p style="text-align: right;">Tende</p> <p>r documents &amp; contract in Arabic &amp; English languages when there is a difference in explanation , Arabic language will be dependable as official language .</p>
ITB 12.1	<p>In addition to the documents stated in Paragraphs 12.1 (a) through (f), the following documents must be included with the Bid :</p> <p>1-Catalogues, operation &amp; service manuals and complete &amp; detailed specifications for equipment with standard and optional accessories, complete price list of spare parts with the warranty, maintenance, installation and training</p>

for technical and medical staff should be stated in offer.

2- the commercial offer should include the following details:

*Origin of goods .....taking into consideration that term EU should not be stated.*

*-Name of manufacturing company .....*

*-Address of manufacturing company .....*

*- Way of shipment clearly .....*

*- Entry point (specify more than one point) .....*

*- Shipment schedule starting from the date of L/C notifying*

*- L/C validity .....*

*- Delivery period .....*

*- Name of corresponding bank .....*

*- Address of corresponding bank .....*

*- Full name & address of beneficiary .*

*- Area name .....St.....Building no.....*

*- Phone no.....*

*- Fax no..... Email .....*

*- Name of account 's holder ( provided that the account should be under the name of company & not under the name of person).....*

*- Account NO. .... Swift code .....*

*- Name of the representative in Iraq with enclosing legalized authorization*

*- Address of the representative in Iraq.....*

*- Name of authorized person who will sign the contract & his administrative position with enclosing legalized authorization.....*

3- Submitting foundation certificate of the bidder company ,which should be original & legalized.

14.	<p>Offer prices &amp; discounts:</p> <p>1-No discount will be accepted by the bidder after closing date.</p> <p>2- Any reservation and price discount presented after the bid closing date will not be accepted &amp; neglected unless required by the first party.</p> <p>3- The bidder has no right to endorse any condition from the bid documents or make any amendment what its kind .</p>
ITB 15.1	<p>b) Foreign currencies: <i>[U.S.D in ink or printed ward &amp; figure in clearing way without erasure ]</i></p>
ITB 16.1	<p>The bid validity period shall be <i>[365 DAYS]</i> days after the <i>deadline for bid submission, as specified below in reference to ITB Clause 20.</i> Accordingly, each bid shall expire after DD.<i>[ / 26/6/ 2019]</i></p> <ul style="list-style-type: none"> <li>- bid bond should be valid for 28 days after validity expiration of the offer , therefore , the offer should be submitted with the bid bond which its expiration validity before the offer will be rejected as it is not applicable. DD. <i>[ 24 / 7 /2019]</i></li> <li>- Offer validity could be extended according our request.</li> </ul>
17.1	<p>General state companies &amp; general sector are exception from submitting bid bond according to the governmental contracts execution instructions no. 2 , 2014.</p> <p>(In case the contracting entity has decided that : the contracting entity has decided not to submit bid bond in case there is an exception issued by the official entities.)</p> <ul style="list-style-type: none"> <li>- Bid bond value should be : <i>[8,519.72 \$]</i></li> <li>- <b><u>Legal bid bonds :</u></b> <p><b>1 – the bidders should submit bid bonds to guarantee their will in participating in the bids for all contracts kinds &amp; supplying which should represent ( 1% ) from the total value of the appraisal cost which should be issued from dependable bank in Iraq according to CBI Issue list which state the financial efficiency for the this bank according to its conditions which guarantee the import party rights &amp; commitment for the bidders conditions.</b></p> </li> </ul>



	<p><b>2- bid bonds should be as bank guarantee or legalized check or bill of exchange .</b></p> <p><b>3- bid bonds will be forfeited when the bidder will incremented to sign the contract after notification to the awarding &amp; taking all the legal procedures against him .</b></p> <p><b>4- (1% ) bid bonds from the total value of the appraisal cost will not represent as part of the final bid bonds , since there is another one ( 5% performance bond from the total value of the contract ) which represent as final bid securities , submitting during contract signing .</b></p> <p><b>5- bid bonds validity should be effective after the bid validity for a period not less than( 28 days ) , while the final bid bonds : ( performance bond ) should be effective after completing all the service periods &amp; settlement the final accounts .</b></p>
ITB 17.8	<p>If the Bidder defaults under the actions prescribed in subparagraphs (i) or (ii) 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.</p> <p>- bid bonds submitted by the bidders or ( one of the partners company or shared companies according to their sharing contract ) for the benefit of the contracting party which should refer to the project name &amp; number of the bids .</p> <p><b><u>-Legal procedures of infringement as the following :</u></b></p> <ul style="list-style-type: none"> <li>• if the bidder refrained from contracting after being notified by the award, the following procedures will be taken against him: <ol style="list-style-type: none"> <li>1.bid bonds will be forfeited for the uncommitted bidder.</li> <li>2. Awarding the tender to the second choice of the competitive companies &amp; the bidder will pay the differences in executing the contract.</li> <li>3.In case the first &amp; second choices have not committed , the contractor has the right to award the tender to the third choice &amp; pay the differences in executing the contract &amp; bid bonds will be forfeited for the first &amp; second choice bidders.</li> <li>4.In case the third choice has not committed, &amp; bid bonds will be forfeited &amp; the tender will be published again &amp; the three uncommitted bidders will pay the differences in executing the contract &amp; bid bonds will be forfeited for the three choices bidders.</li> </ol> </li> </ul>

	<p>5.The A/M procedures will be taken against uncommitted bidders during the validity of the bids .</p>
ITB 18.1	<p>-Required number of copies of the bid: <i>[three applicable copies of the original offer)</i> .</p> <p>-Offer should be submitted in two original copies signed &amp; stamped one is non priced and the other priced in three exactly similar copies, each with complete name and address of the supplier &amp; one copy on a disk or C.D in closed envelope. All the pages of the priced offer should contain an original signature and stamp also the form of offer submitter and should be signed by the company or by the authorized person for the original signature, also the form of offer submitter Otherwise offer will be neglected .</p>
ITB 18.2	<p>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).</p> <p><b><u>Special instruction concerning the authorization letters :</u></b></p> <p>1- Offers should be submitted directly by the manufacturing company through either the following :</p> <ul style="list-style-type: none"> <li>a. Director General.(aproxy)</li> <li>b. Deputy manager (assistant)</li> <li>c. Sales manager (marketing)</li> <li>d. Commercial manager.</li> <li>e. Through scientific bureau authorized originally and the authorization of any employee not stated above will be accepted provided that his authorization should fulfil the required legal forms and approvals.</li> </ul> <p>2- In order to arrange contracting operation which is ensure offer submitting and arranging the correspondences &amp; authorities of the offers which include submitting , stamp , signing , opening &amp; submitting the prices not just issuing authorization letters which include authorities by the Manufacturing companies or their representatives under the knowledge of the manufacturing company , therefore authorization letter which issuing from the manufacturer to marketing company in case signing with the marketing company should clarify the authorities of marketing company regarding the following :</p> <ul style="list-style-type: none"> <li>•The signing of contract and execution all its obligations.</li> <li>•The technical &amp; commercial negotiation.</li> <li>•Specifying the beneficiary applicant clearly in details from the L/C and beneficiary name of bank account with the whole other bank details.</li> <li>•Specifying the correspondences and the authorities which concerning with offers as far as submitting it, stamp it , sign it, open it, and submitting the prices without</li> </ul>

	<p>satisfaction to issue free authorization which authorizes all these authorities.</p> <ul style="list-style-type: none"> <li>•Confirm continuing the execution of all contracting obligation and the marketing company will bear a legal responsibility for the period of execution the contract even the period of authorization is expired with reference to complete the whole procedures including the registration of company and its products and full address and the details for manufacturing and marketing companies and completing the stamps and legalizations as it is workable now.</li> <li>•The contracted companies should submit the required legal guarantees according to the conditions of invitation within stipulated period in these instructions.</li> </ul> <p>3-The authorization letter should be legalized officially by:</p> <ol style="list-style-type: none"> <li>a) The chamber of commerce in the country of origin.</li> <li>b) Ministry of Foreign Affairs or notary public in the country of origin</li> <li>c) Iraqi embassy in the country of origin or its representative there.</li> <li>d) Iraqi Ministry of Foreign Affairs in Baghdad should stamp and legalize upon agreement &amp; signature of the Iraqi embassy in the country of origin.</li> <li>e) In anyway, if the Iraqi embassy can not stamp all these documents above mentioned ,either there is no Iraqi embassy or knowing no exact information about a person identity who represents the company so that embassy of the country of origin in Iraq should legalize and stamp upon that official authorization letters in order to be legal and acceptable and agreed upon.</li> <li>f) If there is no ((diplomatic representation)) between Iraq and country of origin, so the legalization should be made in a third country by the embassy of the country of origin which is existing as legal &amp; official formality to represent it by giving the legality of the agreement also the stamps of the Iraqi embassy in the third country &amp; finally Iraqi ministry of foreign affairs should legalize and sign up on our embassy in the third country there.</li> </ol> <p>4- The company should mention in the authorization letter whether it is manufacturer or supplier (marketing company).</p> <p>In case of being supplying company, the following should be clarified :</p> <ol style="list-style-type: none"> <li>a. <span style="float: right;">Name</span> s &amp; specialization of the manufacturing companies should have a legalized authorization from the manufacturing Cos as mentioned above and the producing Co. should state that you are the sole supplier (exclusive) for all products in Iraq .</li> <li>b.The marketing company as being the bidder should has a legalized authorization letter from the manufacturing companies as mentioned in article (2) above.</li> <li>c.In case of being a manufacturer, the company specialization (special knowledge for a specific system) should be mentioned &amp; verified.</li> <li>d.Your manufacturer company should mention sole &amp; exclusive representative to deal with for all its products also the company should mention its factories and branches as well as it should state that you are a producer company .</li> </ol>
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	<p>e.The letter of authorization should be legalized as mentioned in article (3) above.</p> <p>f.The authorization letter must be addressed to the state company for marketing drugs and medical appliances (Kimadia) / D.G.M.I / fifth floor/.</p> <p>5- An original authorization letter should be issued from the manufacturing company addressed to the supplier then to the scientific bureau &amp; the original foundation certificate legalized by the producing company &amp; certificate legalized by the producing company &amp;marketing company &amp; submitting the final accounts of the manufacturing company for ( last 5 years)which stated the profits of such years &amp; referred the middle age of their profits provided that such accounts should be in Arabic &amp; English languages Exclusively &amp; should be positive accounts within the closing date &amp; stated the name of its only agent , otherwise the offer will be neglected.</p> <p>6- State the name who is authorized to sign &amp; stamp the offers &amp; contracts with its administrative position &amp; copy of his signature to the (Kimadia) / D.G.M.I / fifth floor, in order to applicable with the signature stated in the bids or that which is stated in the contracts , otherwise , the offer will be neglected., which have no signature sample in (Kimadia) / D.G.M.I / fifth floor</p> <p>7- the bidders should state the authorized persons with their names , administrative address who will sign the contracts &amp; their approved legalization according to the dependable procedures which should be valid during the contracting , issued before signing contracts not more than three months.</p> <p>8- The bidders should state their web site in their offers, the e-mail address , &amp; the responsible person who will follow-up all the inquiries concerning the offers.</p> <p>9- Continuing the responsibility of the scientific bureau even after the expiration their authorizations letters, un less the further authorization letter has cover all the former commitments of the foreign companies .</p>
18.9	<p>In addition to the instructions list to the bidders :</p> <p>-</p> <p style="text-align: right;">The</p> <p>bidder has no right to make objection for any bid conditions.</p>

## D. SUBMISSION OF BIDS

ITB 19.2 (b)	<p>For <b><u>bid submission purposes</u></b>, the Contracting Entity's address is :</p> <p>Attention: <u>[KIMADIA]</u></p> <p>Street Address: <u>[Bab Al-Moa'adham]</u></p>
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	<p>Floor/Room number: <u>[M.O.H Building , 6<sup>th</sup> floor/ received &amp; opening offers committee ]</u></p> <p>City <u>[Baghdad ]</u></p> <p>ZIP Code: <u>[ ]</u></p> <p>Country: <u>[Iraq]</u></p> <p><u>In addition to what A/M said , concerning these bids which submitted by the DHL, they should be arranged in separated envelope they should be delivered to kimadia before closing date , otherwise , the offers will be neglected, provided , that it should stated in the external envelope , the bidder address inside &amp; outside Iraq in addition to :</u></p> <ul style="list-style-type: none"> <li>- <u>Aadditional attachments send with the offers</u></li> <li>- <u>Ppage No, with each offer.</u></li> <li>-</li> </ul>
ITB 19.2 (c)	<p>The Tender, Tender No. and IFB No are:</p> <p><b><u>Tender SUBJECT :</u></b> <u>[ CPAP ]</u></p> <p><b><u>Tender No.:</u></b> <u>69 /2018/30 Current Budget M.O.H]</u></p> <p><b><u>IFB No:</u></b> <u>[ 30 ]</u></p>
ITB 20.1	<p>Deadline for bid submission is: <u>[ 25 / 6 /2018 till 2:30 AM local time Baghdad-Iraq].</u></p> <ul style="list-style-type: none"> <li>- Offers that will be sent by international express mail should be sent before closing date , otherwise will be neglected.</li> <li>- Any reservation and price discount presented after the bid closing date will not be accepted .</li> </ul>

## E. BID OPENING AND EVALUATION

ITB 23.1	<p>The bid opening shall take place at:</p> <p>Street Address: [ <u>Bab Al-Moa'adham</u> ]</p> <p>Floor/Room number: [ <u>M.O.H Building , 6th floor/ received &amp; opening offers committee</u> ]</p> <p>City : [ <u>Baghdad</u> ]</p> <p>Country:[<i>Iraq</i>]</p> <p>Date: [ 26 / 6 /2018 ]</p> <p>Time: [ at the beginning of the official work ]</p> <p>- THE OFFERS WILL BE OPENED IN PUBLIC ON THE DAY AFTER THAT OF THE CLOSING DATE BEFORE THE END OF OFFICIAL WORK.</p>
26.	<p><b>1. IN CASE OF ESSENTIAL DIFFERENCES OCCURRED BETWEEN HARD COPY AND NET ONE, OUR COMPANY HAS THE RIGHT TO NEGLECT THE NET OFFER AND DEPEND ON THE HARD ONE.</b></p> <p><b>2.OFFERS SHOULD INCLUDE COMMERCIAL TERMS [NAME OF MANUFACTURER, ORIGIN OF GOODS ,PAYMENT TERMS, DELIVERY TIME(SHIPPING),METHOD OF DISPATCH, PACKING DETAILS, ENTRY POINT, PORT OF SHIPMENT, NAME AND ADDRESS OF CORRESPONDING BANK, ACCOUNT NO., COMPLETE NAME AND ADDRESS OF BENEFICIARY] ALL TO BE STATED IN THE OFFER.</b></p> <p><b>3. Prices are clearly submitted without rubbing or scratching, the price of each unit is the dependable one, and these prices should be final and nonnegotiable.</b></p> <p><b>4. The additional enclosures should submitted with the offer.</b></p> <p><b>5. State the number of pages for each offer.</b></p>
27	<p><i>In addition to what are stated in the A/M Instructions to Bidders Section.</i></p> <p><i>1- If there is an one item or more in the offer have no prices, their costs will be valued including the total value of the offer..</i></p>

	<p>2- If there are items in the offer have no prices, their costs will be including the prices of the other items stated in the schedule quantities .</p>
29	<p>1. Samples upon requesting within 14 days from the date of notifying otherwise offer will be neglected.</p> <p>2. Companies that participating in this bid which submitted samples and not get the relegation have to draw the samples within one month from the date of relegation otherwise our company (Kimadia) has the right to deal with these samples.</p>
ITB 29.4	<p>[ insert: x %]</p> <p>{Note: x % may be prevailing normal rate of interest in Iraq.}</p>
30.1	<p>[ insert: not applicable , for other not for drugs]</p> <p>Or</p> <p>["if the goods are drugs , &amp; in case the applicable offer is the less prices , which include foreign goods according to the article no. 29, from ITB , IN THIS CASE margin of preference will be gated to this offer which is submitted by the Iraqi national factories , provided , that the domestic commodities prices should not exceed to that of foreign commodities prices more than ( 10% ) "]</p>
31	<p>1- Kimadia is not committed to accept lowest prices and is not committed to award the whole quantity of requirements to one company and the best is chosen according to the technical specifications.</p> <p>2- Kimadia is not committed to accept the total quantity stated in the tender .</p> <p>3-Kimadia has the right to choose the best offers.</p> <p>4- Offers submitted by net ( e-mail) to the contractual parties should not be considered unless that such offers legalized &amp; sent by the official correspondences according to the dependable procedures which should include all the required documents to participate in the bid , otherwise, these offers will be neglected.</p> <p>5- No right to accept any preservation or amendment after closing date .</p> <p>6-Bidders which submit discount percentage or deducted amount will be excluded from the bid ,no discount will be accepted , even if it is submitted after the closing date , in addition to that , no amendments after the awarding will be accepted or discount letter submitted after closing date.</p> <p>7- An efficient bidder will be excluded by his experience with the official</p>

	<p>party.</p> <p><i>8-Un-committed offer for it is not applicable with the required technical descriptions will be excluded even if it is low prices offer.</i></p>
34	<p>34.1 this article of Instructions to Bidders has been amended to be :</p> <ol style="list-style-type: none"> <li>1. Increasing or reducing the quantities in the bid before the contracting.</li> <li>2. The official contracting party has the right to apart the awarding of the items or services.</li> <li>3. The official contracting party has the right to increase the items not more than the percentage of the reserve amount .which is stated in the annual budget instructions on condition that the financial fund is transferred with the same contracting conditions.</li> </ol>
37.1	<p>-The contract signed by the winner bidder in the same DEPENDABLE offer language which is that will be the official language in the contracting relations between the contractor party &amp; the winner bidder, who has no right to sign translated copy contract.</p> <p>- the contract should be legalized according to the dependable procedures in Iraq.</p>
37.2 B	<p>- In case the judgment of the concerning court is contrary to the decision of the contract party , the bidder has the right to go to the court to ask for compensation , if his appeal for right reasons .</p> <p>-In case the contracting procedures are paused by the concerning court , &amp; judgment has been issued to order the contracting party to complete the procedures with the bidder , the contracting party has to arrange law suit against the contracting party which ask to compensate for any damage as resulted in future for reasons of execution contract .</p>
38.	<p>38.1</p> <p>- the bidder has to submit the commitment with the offer to submit performance bond when the bidder informed with the awarding</p> <p>-</p>



	<p>n addition to the Instructions to Bidders the following articles will be added :</p> <p>A. The performance bond should submitted after the awarding letter &amp; before the signing contract &amp; it is valid till the expiration of the contract &amp; it is not cancel until a notification issued from kimadia &amp; it is submitted a commitment letter with the offer .</p> <p>B. .The performance bond should issued by the Iraqi official bank or local Iraqi bank &amp; these banks should not issued such performances unless submitting back to back performance bank &amp; such bank is under the classification issued from ( Moody's standard and poor) &amp; others or against cash guarantees not less than warranty amount without interrering TBI issued in Arabic + English Languages &amp; the Arabic will be the dependable language .</p> <p>C.Performance bond issued on behalf of the bidder or who is authorized officially to issue the performance bond according to official legalized authorization letter submitting to the bank &amp; stated in the performance bond or in the attached letter issued from the same bank which is issued this performance bond .</p> <p>D.true issuing letter ( secret &amp; personal ) which is issued by the same bank should send to kimadia with the performance bond &amp; it is to be unconditional for the benefit of kimadia &amp; kimadia has the right to extend or confiscated it in case kimadia ask that without objection of the correspondences banks or the bidders, with first written request .</p> <p>E. All the bidders ( companies &amp; scientific bureaus ) should take into consideration the following when issuing this bond :</p> <ol style="list-style-type: none"> <li>1. Performance bond should issued exclusively in the name of the sinning second party .</li> <li>2. Confirming that the contract number should stated in the performance bond .</li> <li>3. Confirming that the following article stated in the performance bond ( this performance bond explained according to the Iraqi laws).</li> <li>4. performance bond should cover financially by the bank.</li> <li>5. No performance bond receiving unless it is attached with the official letter issued by the issuing bank &amp; signing by the authorizing manager or who is represent him .</li> <li>6. . performance bond should be valid from date of its issuing until the validity of the contract &amp; finishing all the contractual conditions .</li> <li>7. performance bond should not be conditional or directly.</li> <li>8. ( In case the bidder has not accepted to make the amendments or extensions or not committed to the performance bond by the supplier, then the performance bond amount will be confiscated &amp; deposited on benefit of the kimadia account ).</li> <li>9. Performance bond should not receive unless they are issued by the</li> </ol>
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	<p>dependable banks which are stated in a Bulletin issued by the CBI , for it is not accepted by kimadia in addition , to that , these bonds which are issued by the branches of the banks located in all the provinces .</p> <p>10. Performance bond should state the same contract currency.</p>
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## **SECTION III. EVALUATION AND QUALIFICATION CRITERIA**

### **1. Evaluation Criteria**

The Evaluation Criteria has been specified in Instructions to Bidders (ITB) in Section I and Bid Data Sheet (BDS) in Section II. The specific data Bid Data Sheet (BDS) for the Goods 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

Qualification requirements for Bidders Goods are:

*{Note: Contracting Entity may insert appropriate **quantifiable qualification criteria for experience and / or financial viability etc depending upon type of good**}*

A) {For **Health Sector Goods** insert}

The following documents must be included with the bid:

*Documentary evidence of the Bidder's qualifications to perform the Contract if its bid is accepted:*

*(i) that, in the case of a Bidder offering to supply Goods under the Contract that the Bidder manufactures or otherwise produces (using ingredients supplied by primary manufacturers) that the Bidder:*

- (a) is incorporated in the country of manufacture of the Goods;*
- (b) has been licensed by the regulatory authority in the country of manufacture to supply the Goods;*
- (c) has manufactured and marketed the specific goods covered by this Bidding Document, for at least [insert two (2) years or as per market availability], and for similar Goods for at least five (5) years;*
- (d) has received a satisfactory GMP inspection certificate in line with the WHO certification scheme on pharmaceuticals moving in International Commerce from the regulatory authority (RA) in the country of manufacture of the goods or has been certified by the competent authority of a member country of the Pharmaceuticals Inspection Convention (PIC), and has demonstrated compliance with the quality standards during the past two years prior to bid submission;*

*(ii) that, in the case of a Bidder offering to supply Goods under the Contract that the Bidder does not manufacture or otherwise produce,*

- (a) that the Bidder has been duly authorized by a manufacturer of the Goods that meets the criteria under (i) above to supply the Goods in Iraq; and*

*(iii) The Bidder shall also submit the following additional information:*

- (a) a statement of installed manufacturing capacity;*
- (b) copies of its audited financial statements for the past three fiscal years;*
- (c) details of on-site quality control laboratory facilities and services and range of tests conducted;*

- (d) *list of major supply contracts conducted within the last five years and relevant certifications endorsed by respective Clients. }*

A) **{For Medical Equipment }**

(i) *Financial Capability:*

*The Bidder shall furnish documentary evidence that it meets the following financial requirement(s):*

1. *Financial efficiency ,funds and profits through presenting final approved calculation by auditor for last two years.*
2. *Kind of commercial sell and supplying method : ( transport, insurance, delivery & receiving consignment place) :*

*-Capital contracts : ( more than 10 billion I.D)*

*- Middle contracts: (5 -10 billion I.D )*

*- Small contracts (less than 5 billion I.D)*

*- Annual income average (Capital contracts) equal to the appraisal cost of the contracts.*

*-Annual income average (Middle contracts) equal to (70-100%) from the appraisal cost of the contracts.*

*- Annual income average (small contracts) equal to (30-50%) from the appraisal cost of the contracts.*

3. **Cash Funds :**

*- Cash Funds : (Capital contracts) equal to the appraisal cost of the contracts.*

*- Cash Funds : (Middle contracts) equal to (70-100%) from the appraisal cost of the contracts.*

*- Cash Funds : (Small contracts) equal to (30-50%) from the appraisal cost of the contracts.*

*- Company foundation certificate .*

*-. The total annual commitments which represent the signing contracts with developed countries in supplying the similar products.*

*- the participating companies in the bid or direct invitation submit their prices in their contracts with the other & neighbor countries of Iraq which should be attached with the offers which should be legalized with signed & stamped of the offer submitter.*

*Ii -Experience and Technical Capacity*

*The Bidder shall furnish documentary evidence to demonstrate that it meets the following experience requirement(s):*

1. technical specifications & quality control of the commodities which are requested by the contracting party & how they are applicable to the descriptions which facilitate the offer checking which include indicators explain the aim of using these items which include details of work environment circumstances like ( heating, humidity , storing circumstances .....etc ) & packing requirements.
2. after sale services ( installation , warranty, maintenance & training ).
3. Similar works issued and accepted by concerned parties.
4. Specialized experience ( similar works) :  
  
The required projects number in the bid documents between ( 1-3).  
  
The required years number for the similar projects (5-10) years , which calculated as the following :  
  
One similar project amount for ( huge & medium contracts ) covers ( 60-80%) from the appraisal cost value .  
  
One similar project amount for ( small contracts ) covers (30-70 %) from the contract value .
5. The implemented works within same field.
6. The period related to execute the contract.
7. Place of receiving the supplied goods.
8. Origin.
8. All operating materials and spare parts for operation.
9. The capability to commit with the achievement & delivery factors.
10. Arranging technical skills & capabilities to implement the contract.
11. Technical (engineering & technician staff & equipment).
12. The bidders should attached the similar projects with their bids which should be legalized by the concerning contracting party & state their technical system qualifications & specialists who are not working when contract projects executing in different kinds or the consultative contracts.
13. Request to submit the required work programs.

*iii- The Bidder shall furnish documentary evidence to demonstrate that the Goods it offers meet the following usage requirement: [list the requirement(s)]*

**{Note:** If bids for individual Schedule or lots are permitted, the Qualification Criteria for each Schedule or lot should be given separately. }

## Fourth section: Bid Documents

### 1. Bid Submission Form

Date: [insert: / /2018]

{ Tender Number: [ 69 /2018/ 30 ]

IFB Number: [ 30 ]

To: [Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances (KIMADIA). ]

Dear Sir or Madam:

Having examined the Bidding Documents, including Addenda Nos. [insert numbers], the receipt of which is hereby acknowledged, we, the undersigned, offer to supply and deliver the Goods under the above-named Contract in full conformity with the said Bidding 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 Goods in accordance with the delivery schedule specified in the [insert “Schedule of Requirements in Section-VI” or “as quoted in Price Schedule in Section-IV”] (the Bidder may select as appropriate clause).

3. We agree to all General Conditions of Contract in Section-VII read in conjunction with the Special Conditions of Contract in Section-VIII.

4. If our bid is accepted, we undertake to provide an advance payment security and a performance security in the form, in the amounts, and within the times specified in the Bidding 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 II 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 Eligible countries as per ITB Sub-Clause-6.1 of Section-I.
- (b) We do not have conflict of interest in accordance with ITB Sub-Clause-6.1 (a) of Section-I.
- (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 - I.
- (d) We including any of our subcontractors or manufacturers for any part of the contract, have not been declared 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 Republic of Iraq and declared ineligible to bid during the period of time determined as per ITB Clause 6.3 of Section-I.

10. We confirm that our website address is \_\_\_\_\_, and our mail address is: \_\_\_\_\_

\_\_\_\_\_, and that Mr. /Ms. \_\_\_\_\_  
\_\_\_\_\_ of Job Title: \_\_\_\_\_ and 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 Domestic Goods or Goods of Foreign Origin Located 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 Iraq Currency					Total Price on DDP/Free Delivery at End-users' site. (Iraqi Dinar)
(a)	(b)													3 X 5(e)
<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>								
	<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>	<u>[Insert]</u>	<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 in Iraqi Dinar: \_\_\_\_\_ (In figures)  
 \_\_\_\_\_ (In words)

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

Date: \_\_\_\_\_

Signature of Bidder \_\_\_\_\_  
 Name & Designation \_\_\_\_\_  
 Seal of the Bidder \_\_\_\_\_

### 3. Price Schedule for Goods to be imported from Abroad

1		2					3	4	5				6
Schedule No	Item No.	Brief Description of Goods					Quantity 2751	Country of Origin	Unit Price [ Bidder may insert permissible Currency]				Total price on DDP at End-users' site along with Incidental series
(a).	(b)								CIP Price / End User (A)	DDP Price / End User (B)	Emergency services as stated in requirement schedules (C)	DDP Price / End Users with emergency services B+C=D	3X 5 (D)
[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: [Bidders may insert permissible Currency] \_\_\_\_\_ (In figures)  
 \_\_\_\_\_ (In words)

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

Agent Name & Address: \_\_\_\_\_ [Bidder may insert, if applicable]

Agency Commission: \_\_\_\_\_ [Bidder may insert, if applicable]

Place: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Bidder \_\_\_\_\_

Name & Designation \_\_\_\_\_

Business address \_\_\_\_\_

Seal of the Bidder \_\_\_\_\_

## Country of Origin Declaration Form

Item	Description	Code	Country

A confirmed certificate of origin shall be issued for all imported items at the time of shipment.

**4. Price Schedule for Annual Maintenance Contract (AMC) after Warranty Period##**  
**(Applicable for Medical Equipment) ( NOTHING )**

1		2	3	4				5	6.	7.	8.
Schedule No.	Item No.	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 <sup>st</sup> Year	2 <sup>nd</sup> Year	.....	n <sup>th</sup> Year				
				(a)	(b)		(n)				
(a)	(b)										
[Insert]	[Insert]	[Insert]									
	[Insert]	[Insert]									
[Insert]	[Insert]	[Insert]									

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

Place: \_\_\_\_\_

Date: \_\_\_\_\_

Signature of Bidder \_\_\_\_\_

Name & Designation \_\_\_\_\_

Business address \_\_\_\_\_

Seal of the Bidder \_\_\_\_\_

Note: -

## { 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 should 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.}

## 5. Performance bond (Bank Guarantee)(unconditional)

*[The Bank shall fill in this Bank Guarantee Form in accordance with the instructions indicated.]*

\_\_\_\_\_  
*[insert Bank's Name, and Address of Issuing Branch or Office]*

**Beneficiary:** \_\_\_\_\_ *[insert Name and Address of Contracting Entity]*

**Date:** \_\_\_\_\_

**BID GUARANTEE No.:** \_\_\_\_\_

We have been informed that *[insert name of the Bidder]* (hereinafter called "the Bidder") has submitted to you its bid dated (hereinafter called "the Bid") for the execution of *[insert name of tender/project]* under Invitation for Bids No. *[insert IFB number]* ("the IFB").

Furthermore, we understand that, according to your conditions, bids must be supported by a bid guarantee.

At the request of the Bidder, we *[insert name of Bank]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert amount in figures]* (*[insert amount in words]*) upon receipt by us of your first demand in writing accompanied by a written statement stating that the Bidder is in breach of its obligation(s) under the bid conditions, because the Bidder:

- (a) has withdrawn its Bid during the period of bid validity specified by the Bidder in the Form of Bid; or
- (b) having been notified of the acceptance of its Bid by the Contracting Entity during the period of bid validity, (i) fails or refuses to execute the Contract Form, if required, or (ii) fails or refuses to furnish the performance security, in accordance with the Instructions to Bidders.
- (c) has complained or appealed as per ITB clause 36 and it is decided by the competent authorities for this Bidder to compensate all damages resulting from delaying the contract signature for false or unjustified reasons.

This guarantee will expire: (a) if the Bidder is the successful bidder, upon our receipt of copies of the contract signed by the Bidder and the performance security issued to you upon the instruction of the Bidder; or (b) if the Bidder is not the successful bidder, upon the earlier of (i) our receipt of a copy of your notification to the Bidder of the name of the successful bidder and the bidder has not complaint or appeals to the Contracting Entity; or (ii) twenty-eight days after the expiration of the Bidder's Bid and the bidder has not complaint or appeals to the Contracting Entity.

Consequently, any demand for payment under this guarantee must be received by us at the office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

*[signature(s)]*

## 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 should be on the letterhead of the Manufacturer and should 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 BDS.]*

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 goods 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 Goods, manufactured by us *[insert: **name and or brief description of the Goods**]*, and to subsequently negotiate and sign the Contract.

We hereby extend our full guarantee and warranty in accordance with Clause 15 of the General Conditions of Contract, with respect to the Goods 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 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

## **FIFTH PART: SCHEDULE OF CONTRACTING REQUIREMENTS LIST**

### **NOTES OF CONTRACTING REQUIREMENTS LIST**

<b>DEWISE NAME</b>	<b>QTY</b>	<b>ESTIMATED COST OF THE ONE DEWISE</b>
<b>CPAP</b>	<b>374</b>	<b>2,278.00 \$ CIP BAGHDAD</b>



## FIFTH PART : SCHEDULE OF CONTRACTING REQUIREMENTS LIST

### NOTES OF CONTRACTING REQUIREMENTS LIST

#### Schedule: I List of Goods, Delivery Schedule and Terms of Delivery:

1		2					3	4	5	6
Schedule No.	Item No.	Brief Description of Goods					Quantity and physical unit	Bid security amount  \$	Final Destination:  KIMADIA STORES - DABAASH ]	Required Delivery period as per [ insert Incoterms® current edition]
(a)	(b)									
[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]

**Terms of Delivery:** The Bidders are required to quote prices as per the terms of delivery stipulated in Price Schedule in Section –IV

## Schedule II: Scope of Incidental Services:

[Insert: “Nil” for Health Sector Goods

OR “Required Installation, Demonstration and onsite Training & abroad training , warranty & maintenance ” for Medical Equipment]

<b>Installation &amp; operation of equipment</b>	<ul style="list-style-type: none"> <li>- The seller is responsible to install and operate the equipments on his account. The second party should install and operate the equipments within 15 days from the date of notification and prepare the suitable site for installation, otherwise a delay penalty will be imposed for each day delay according to the following equation: (Installation &amp; operation amount /installation &amp; operation period in days x 10%= the penalty for one day) on condition that such penalty should not exceed 10% from installation &amp; operation value, &amp; if the delay penalty reach the A/M maximum range , the first party has the right to take the legal procedures against the second party &amp; to bear the difference in the prices that is resulted from kimadia execution to the contract.</li> </ul>
<b>Warranty &amp; Maintenance</b>	<ul style="list-style-type: none"> <li>- the second party (seller) should submit warranty and maintenance period for (Five years) to all equipments starts from the installation and operation date, including (labor + spare parts) on the seller side provided that the 2<sup>nd</sup> party should repair the equipment within (72 hours) inside Baghdad &amp; within one week outside Baghdad from the date of breakdown notification within warranty and maintenance period ,in case there is a delay in effecting warrantee and maintenance within a/m periods a delay penalty will be imposed per each day according to the following equation (warranty and maintenance amount /periodical maintenance period –permission period x 10%= the penalty for one day) And it should not exceed 10% from warranty and maintenance value when the delay penalty reaches the A/M highest percentage the first party has the right to take the necessary legal actions against the second party &amp; hold all the legal effects &amp; differences in prices resulted from kimadia execution of the contract.</li> <li>- Submitting warranty by the supplier include the safety of the equipment during the receiving equipment stated in the contract .</li> </ul>

	<ul style="list-style-type: none"> <li>- Effecting Periodical maintenance every three months .</li> <li>- Second party adhere to supply spare parts after expiring date of warranty for two years provided that this should be through separated contract according to ministry needs for these items .</li> <li>- Second party adhere to guarantee the description of the supplying consignment for (5 years ) starting from initial receiving date , and imposing ( 5%) from the total value of the contract as guarantee will not be released until execution the contractual conditions &amp; finishing the warranty &amp; maintenance period .</li> </ul>
<b>Training</b>	<p><b>AS THEY ARE STATED IN THE TECHNICAL DESCRIPTIONS SECHEDULE</b></p> <p>: within (180) days from the date of notification ministerial orders implementation of paragraph training and otherwise delay penalty will be imposed fine delay for each day of delay is deducted from the training amount that does not exceed 10% of the training value .</p> <p>(trainig amount /training periode in days x 10%= the penalty for one delay day) and if delay penalty reached maximum the first party has the right to take all legal procedures against second party and will bear all legal consequences .</p> <ul style="list-style-type: none"> <li>- the local training is also will be under the same A/M delay penalty .</li> <li>- the seller should presents complete fixed training program with each contract &amp; it should contains the following: <ul style="list-style-type: none"> <li>* work's method of contract's items.</li> <li>* method of installation &amp; loosening parts of equipment.</li> <li>* dependable maintenance method of equipment.</li> <li>* way of following up the idle &amp; how to repair this idle.</li> <li>*The parts which always go out of order &amp; the reasons behind these idles &amp; how to avoid these idles.</li> <li>* which items can be replaced without effecting the equipment works.</li> <li>* specifying the required specialization for training ( electric engineer, mechanic engineer , technician .....etc).</li> <li>* submitting a complete survey for the technical &amp; administrative staff who will submit the training course &amp; the C.V for such staff &amp; if it is a part of the contracted company or this company will sign a contract</li> </ul> </li> </ul>

	<p>with another specialist company in training.</p> <ul style="list-style-type: none"><li>* the second party adheres to give the participant or the trainee a participating certificate &amp; real evaluation for each participant which could enable him completing any maintenance for the equipment.</li><li>* the supplying company adhere after the awarding to invite technical team to visit the company factories in order to check the sample before shipment .</li></ul>
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### Schedule III: Annual Maintenance Contract (AMC):

[Insert: “Nil” for Health Sector Goods  
OR insert for critical Medical Equipment “x %” [insert such as 95% or 98%] UPTIME warranty during AMC Period should be provided. Downtime period exceeding (100-x) % [insert such as 5% or 2%] per year during AMC period will extended AMC period by double the downtime period.]

### Schedule IV. Technical Specifications

The purpose of the Technical Specifications (TS) is to define the technical characteristics of the Goods and Related Services required by the Contracting Entity

**Summary of Technical Specifications:** The Goods and Related Services shall comply with following Technical Specifications and Standards:

<i>Item No</i>	<i>Name of Goods or Related Service</i>	<i>Technical Specifications and Standards</i>
[insert item No]	[insert name]	[insert TS and Standards]

{Whenever necessary: Detailed Technical Specifications and Standards [insert detailed description of TS]

”

<b>Application</b>	- Deliver air or a mixture of air and oxygen
--------------------	--

	(O <sub>2</sub> ) through a mask or nasal tubing to the patient's airways
<b>MODES</b>	CPAP & Optional Bi-level CPAP (other modes should be specified)
<b>MASK</b> <b>Configuration</b> <b>Material</b> <b>No.</b> <b>Size</b>	Nasal , full-face, (other should be specified) Any except (PVC), latex free Startup kit (Qty: should be specified ) Different sizes (adult , pediatric , neonate )
<b>CONTROLS</b> <b>Inspiratory</b> <b>Pressure, cm H2O</b> <b>Expiratory</b> <b>Pressure, cm H2O</b> <b>Rate, bpm</b> <b>Trigger sensitivity</b> <b>Leak sensitivity</b> <b>Panel lock</b>	Min $\leq 6$ MAX. $\geq 20$  MIN $\leq 4$ MAX $\geq 20$ $\geq (1-30)$ Automatic or adjustable Preferred Yes
<b>MONITORED PARAMETERS</b> <b>Respiratory rate</b> <b>Flow range</b> <b>Leak</b> <b>MIP</b> <b>Other</b>	Yes Yes Yes <b>Yes</b> Should be specified
<b>PC COMPATIBLE</b>	Yes
<b>Software</b>	Yes
<b>EQUIPMENT ALARMS</b> <b>Power failure</b> <b>Fault</b> <b>Mask alarm</b> <b>Low battery</b>	Yes Yes Yes Preferred
<b>DISPLAY TYPE</b>	LED or LCD
<b>NOISE LEVEL, dBA</b>	$\leq 45$
<b>AIR FILTER</b>	Yes (changing filter the responsibility of the supplier during the warranty and maintenance period).

<b>TUBING</b>	Yes ( startup Qty should be specified ).
<b>Length, cm (in)</b>	$\geq 180$
<b>Material</b>	Any except (PVC)
<b>ACCESSORIES</b>	Complete manufacturer line of accessories (Should be specified ) Humidifier should be included
<b>BATTERY</b>	
<b>Rechargeable</b>	Yes
<b>Operating time, hr</b>	$\geq 1$ hr
<b>Charger</b>	Yes
<b>Air compressor</b>	<b>Built in</b>
<b>Power supply</b>	- Medical approved power supply board - 220/240 VAC, 50/60 Hz, Three pin G type plug
<b>Environmental requirements</b>	Manufacturer confirms that the equipment suitable for work in the climate conditions in Iraq in terms of temperature & humidity.

## PART 3

### CONDITIONS OF CONTRACT AND CONTRACT FORMS

## SECTION VII. GENERAL CONDITIONS OF CONTRACT

### General Conditions of Contract

<b>1. Definitions</b>	1.1 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 goods will be used, as named in the Schedule of Requirements.
	(f) “GCC” means the General Conditions of Contract contained in this section.
	(g) “The Goods” means all of the pharmaceuticals including nutritional supplement and oral and injectable forms of contraception, vaccines, condoms and medical equipment that the Supplier is required to supply to the Contracting Entity under the Contract.
	(h) “The Purchaser” means the organization or the Contracting Entity purchasing the Goods, as <b>named in the SCC</b> .



	(i) "Registration Certificate" means the certificate of registration or other documents in lieu thereof establishing that the Goods 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 Goods, such as transportation and insurance, and any other incidental services, such as installation, demonstration and onsite training at End-users' site, and other such obligations of the Supplier covered under the Contract.
	(l) "The Site," where applicable, means the place or places of End-users' site as per Schedule of Requirements
	(m) "The Supplier" means the individual or firm supplying the Goods and Services under this Contract, as <b>named in the SCC</b> .
	<p>(n) Fraud and Corruption :</p> <p>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:</p> <ul style="list-style-type: none"> <li>(i) "corrupt practice" is the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;</li> <li>(ii) "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;</li> <li>(iii) "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;</li> <li>(iv) "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;</li> <li>(v) "obstructive practice" is <ul style="list-style-type: none"> <li>(aa) deliberately destroying, falsifying, altering or concealing of evidence material to the</li> </ul> </li> </ul>

	<p>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</p> <p>(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.</p>
<b>2. Application</b>	2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other parts of the Contract.
<b>3. Country of Origin</b>	3.1 For purposes of this Clause, "origin" means the place where the Goods were mined, grown, or produced, or from which the Services are supplied. Goods 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 Goods and Services is distinct from the nationality of the Supplier.
<b>4. Standards</b>	4.1 The Goods 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' country of origin. Such standards shall be the latest issued by the concerned institution.
<b>5. Use of Contract Documents and Information; Inspection and Audit</b>	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 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. 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.
<b>6. Certification of Goods in Accordance with Laws of Republic of Iraq</b>	6.1 If required under the Applicable Law, Goods 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 Goods for use in the Iraq.
	6.2 Unless otherwise <b>specified in the SCC</b> , 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 Goods have been registered for use in Iraq.
<b>7. Industrial owner ship or Patent Rights</b>	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.
<b>8. Performance Security</b>	8.1 Within 14 days, or twenty-nine (29) days 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 performance security 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 Performance Security.
	8.2 The proceeds of the performance security 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 performance security shall be denominated in the currency or currencies of the Contract or 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 <b>Dinar</b> . The Security shall be an unconditional guarantee payable upon first demand and in one of the following forms:

	<p>(a) 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 Bidding 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. Or</p> <p>(b) an irrevocable letter of credit or</p> <p>(c) Republic of Iraq bonds</p>
	<p>8.4 The performance security will be discharged by the Purchaser and returned to the Supplier not later than thirty (30) days following the date of completion of the Supplier's performance obligations under the Contract, including any warranty obligations. The performance security shall be released after the final certificate regarding satisfactory completion of Supplier's performance obligations has been issued and final payment settlements have been done.</p>
<b>9. Inspections and Tests</b>	<p>9.1 The Purchaser or its representative shall have the right to inspect and/or to test the Goods to confirm their conformity to the Contract specifications. <b>The SCC</b> and the Technical Specifications shall specify 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.</p>
	<p>9.2 As <b>specified in the SCC</b>.</p>
	<p>9.3 Nothing in GCC Clause 8 shall in any way release the Supplier from any warranty or other obligations under this Contract.</p>
<b>10. Packing</b>	<p>10.1 The Supplier shall provide such packing of the Goods 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 Goods' final destination and the absence of heavy handling facilities at all points in transit.</p>
	<p>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, <b>specified in the SCC</b> or Technical Specifications, and in any subsequent instructions ordered by the Purchaser.</p>

<b>11. Delivery and Documents</b>	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 <b>specified in the SCC</b> .
	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 <b>specified in the SCC</b> .
<b>12. Insurance</b>	12.1 The Goods supplied under the Contract shall be fully insured in a freely convertible currency chosen from the list of currencies from which the Central Bank of Iraq quotes the rate of exchange to the Iraqi Dinar, against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery. Where delivery of Goods is required by Purchaser on a CIF or CIP basis, the supplier shall assure the insurance of an amount equal to 110 percent of the CIF or CIP value of the Goods from “warehouse” to “warehouse” on “All Risks” basis, including war risks and strikes.
	12.2 Where delivery of the Goods is required by the Purchaser on a CIF or CIP basis, the Supplier shall arrange and pay for cargo insurance, naming the Purchaser as beneficiary. Where delivery is on an FOB or FCA basis, insurance shall be the responsibility of the Purchaser.
<b>13. Transportation</b>	13.1 Where the Supplier is required under Contract to deliver the Goods FOB, transport of the Goods, up to and including the point of putting the Goods on board the vessel at the specified port of loading, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price. Where the Supplier is required under the Contract to deliver the Goods FCA, transport of the Goods and delivery into the custody of the carrier at the place named by the Purchaser or other agreed point shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.

	13.2 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, transport of the Goods to the port of destination or such other named place of destination in the Purchaser's country, as shall be specified in the Contract, shall be arranged and paid for by the Supplier, and the cost thereof shall be included in the Contract Price.
	13.3 Where the Supplier is required under the Contract to transport the Goods to a specified place of destination within Iraq, defined as the Site, transport to such place of destination in Iraq, including insurance and storage, as shall be specified in the Contract, shall be arranged by the Supplier, and related costs shall be included in the Contract Price.
	13.4 Where the Supplier is required under Contract to deliver the Goods CIF or CIP, no restriction shall be placed on the choice of carrier.
<b>14. Incidental Services &amp; AMC</b>	14.1 The Supplier shall provide such incidental services, if any, as are <b>specified in the Schedule of Requirements</b> .
	14.2 The Supplier shall provide <u>Annual Maintenance Contract (AMC)</u> , if any, after warranty period for number of years as specified in the Schedule of Requirements.
<b>15. Warranty</b>	15.1 Warranty shall be as <b>specified in the SCC</b> .
<b>16. Payment</b>	16.1 The method and conditions of payment to be made to the Supplier under this Contract shall be <b>specified in the SCC</b> .
	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 Goods delivered and Services performed, and by documents submitted pursuant to GCC Clause 11, and upon fulfillment of other obligations stipulated in the Contract.
	<p>16.3 Payments shall be made promptly by the Purchaser, but in no case later than sixty (60) days after submission of an invoice or claim by the Supplier. In case of delay beyond 60 (sixty) days, the resolution of this delay shall be settled as <b>specified in the SCC</b>.</p> <p>When applicable, the advance security 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 security is issued by a Bank located outside Iraq, the issuer shall have a correspondent accredited financial institution located in Iraq to make it enforceable. In the case of a bank guarantee, the security shall be submitted using the Bid Security Form included in Section IX (Contract Forms) or in another substantially similar format with the prior approval of the Purchaser as per the applicable Iraqi laws.</p>

	16.4 Payment will be made in the currency or currencies in which the payment has been requested in the Supplier's bid.
	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.
<b>17. Prices</b>	17.1 Prices charged by the Supplier for Goods 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.
<b>18. Change Orders</b>	<p>18.1 No changes shall be introduced to the contract unless for the circumstances (a-e) listed herebelow. In such case, the Change should be limited to minimum and would be applicable for the following reasons:</p> <ul style="list-style-type: none"> <li>a) If the change is not introduced, a major damage will result economically and technically;</li> <li>b) If the change is not introduced, the Goods cannot be useful upon completion;</li> <li>c) If the change will realize savings in the cost of the Project;</li> <li>d) If the change does not result in a major modification to the pre-determined scope of supply;</li> <li>e) If the change will result in earlier time for completion but not to result in inferior technical specification or scope of supply</li> </ul> <p>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:</p>
	<ul style="list-style-type: none"> <li>(a) specifications, where Goods to be furnished under the Contract are to be specifically manufactured for the Purchaser;</li> <li>(b) the method of shipment or packing;</li> <li>(c) the place of delivery; and/or</li> <li>(d) the Services to be provided by the Supplier.</li> </ul>

	<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. Any claims by the Supplier for adjustment under this clause must be asserted within fifteen (15) days from the date of the Supplier's receipt of the Purchaser's change order.</p>
<p><b>19. Contract Amendments</b></p>	<p>19.1 Subject to GCC Clause 18, no variation in or modification of the terms of the Contract shall be made except by written amendment signed by the parties.</p>
<p><b>20. Assignment</b></p>	<p>20.1 The Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, unless specified otherwise <b>in the SCC</b>.</p>
<p><b>21. Delays in the Supplier's Performance</b></p>	<p>21.1 Delivery of the Goods 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.</p>
	<p>21.2 If at any time during performance of the Contract, the Supplier or its subcontractor(s) should encounter conditions impeding timely delivery of the Goods 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 liquidated damages, in which case the extension shall be ratified by the parties by amendment of Contract.</p>
	<p>21.3 Except as provided under GCC Clause 24, a delay by the Supplier in the performance of its delivery obligations shall render the Supplier liable to the imposition of liquidated damages pursuant to GCC Clause 22, unless an extension of time is agreed upon pursuant to GCC Sub-Clause 21.2 without the application of liquidated damages.</p>
<p><b>22. Delay penalties (reduced according to the achievement)</b></p>	<p>22.1 Subject to GCC Clause 24, if the Supplier fails to deliver any or all of the Goods or to perform the Services within the period(s) specified in the Contract, the Purchaser shall, without prejudice to</p>



<b>percentage</b>	<p>its other remedies under the Contract, deduct from the Contract Price, as liquidated damages as per following formula:</p> $\frac{\text{Total Contract Price} \times 10\% - 25\%}{\text{Total validity contract (days)}} = \text{delay penalty per day}$ <p><b>OR could be deducted as following formula :</b></p> $\frac{\text{Unperformed Contract Price} \times 10\%}{\text{Delivery period (days)}} = \text{Liquidated damages per day}$ <p>In the above formula the unperformed Contract Price applicable will be a sum equivalent to delivered price of the delayed Goods or unperformed Services until actual delivery or performance, up to a maximum deduction of the 10% percentage of Contract Price. Once the maximum is reached, the Purchaser may consider termination of the Contract pursuant to GCC Clause 23.</p>
<b>23. Termination for Default</b>	<p>23.1 The Purchaser, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Supplier, may terminate this Contract in whole or in part in accordance with the Iraqi applicable laws:</p>
	<p>(a) if the Supplier fails to deliver any or all of the Goods within the period(s) specified in the Contract, or within any extension thereof granted by the Purchaser pursuant to GCC Clause 21; or</p>
	<p>(b) if the Goods do not meet the Technical Specifications stated in the Contract within 30 days from date of receiving the written notification issued by the purchaser; or</p>
	<p>(c) if the Supplier fails to provide any registration or other certificates in respect of the Goods within the time specified in the Special Conditions.</p>
	<p>(d) if the Purchaser determines as per the applicable Iraqi laws that the Supplier has engaged in corrupt, 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, terminate the Supplier's employment under the Contract and cancel the contract, and the provisions of Clause 23 shall apply as if such expulsion had been made under Sub-Clause 23.1.</p>
	<p>(e) should 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.</p>

	<p>(f) if the Supplier fails to perform any other obligation(s) under the Contract.</p> <p>(g) if the supplier withdraw completely or partially from the contract to another supplier or sign un-official contract with another supplier.</p>
	<p>23.2 In the event the Purchaser terminates the Contract in whole or in part, pursuant to GCC Sub-Clause 23.1, the Purchaser may procure, upon such terms and in such manner as it deems appropriate, Goods or Services similar to those undelivered, and the Supplier shall be liable to the Purchaser for any excess costs for such similar Goods or Services. However, the Supplier shall continue performance of the Contract to the extent not terminated.</p>
<p><b>24. Termination for Insolvency</b></p>	<p>-The Purchaser may at any time terminate the Contract by giving written notice within 15 days to the Supplier if the Supplier becomes bankrupt or otherwise insolvent. Without returning to the court as following cases :</p> <p>(a) if the supplier has been insolvency , poverty, or subjected to dissolution his assets or submit a request to become under Insolvency or poverty.</p> <p>(b) if the relevant court issued a judgment to put the supplier assets under the hand of Insolvency secretary .</p> <p>© if the supplier has agreed to carryout his contractual obligations under the observation of inspection committee consist of his creditors.</p> <p>(d) if the supplier assets have been holding ( blocked) by the relevant court which lead to inability to commit with his contractual obligations.</p> <p>In this case , the contract will be under determination without any compensation to the supplier &amp; without exceed to the purchaser rights or compensations according to the contract or what are resulted beyond.</p>
<p><b>25. Force Majeure</b></p>	<p>25.1 Notwithstanding the provisions of GCC Clauses 21, 22, and 23, the Supplier shall not be liable for forfeiture of its performance security, liquidated damages, or termination for default if and to the extent that it's delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force</p>

	Majeure.
	<b>25.2</b> 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, acts of the Purchaser in its sovereign capacity, wars or revolutions, fires, floods, epidemics, quarantine restrictions, and freight embargoes.
	<b>25.3</b> 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.
<b>26. Termination for Convenience</b>	<p><b>26.1</b> The Purchaser, by written notice sent to the Supplier, may terminate the Contract, in whole or in part, at any time for the following cases :</p> <p>(a) for general benefit .</p> <p>(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 .</p> <p>For its convenience. The notice of termination shall specify that termination is for the Purchaser’s convenience, the extent to which performance of the Supplier under the Contract is terminated, and the date upon which such termination becomes effective.</p>
	<p><b>26.2</b> For the remaining goods, the Purchaser may elect:</p> <p>(a) to have any portion completed and delivered at the Contract terms and prices; and/or</p> <p>(b) to cancel the remainder and pay to the Supplier an agreed amount for partially completed Goods and Services and for materials and parts previously procured by the Supplier.</p>
	<b>26.3</b> 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 27.
<b>27. Settlement of Disputes</b>	<b>27.1</b> If any dispute or difference of any kind whatsoever shall arise 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.
	<b>27.2</b> 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.
	<p>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 Goods under the Contract.</p> <p>27.2.2 Arbitration proceedings shall be conducted in accordance with the rules of procedure <b>specified in the SCC</b>.</p>
	<p>27.3 Notwithstanding any reference to arbitration herein,</p> <p>(a) the parties shall continue to perform their respective obligations under the Contract unless they otherwise agree; and</p> <p>(b) the Purchaser shall pay the Supplier any monies due the Supplier.</p>
<b>28. Limitation of Liability</b>	<p>28.1 Except in cases of criminal negligence or willful misconduct, and in the case of infringement pursuant to Clause 7,</p> <p>(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 liquidated damages to the Purchaser.</p>
<b>29. Governing Language</b>	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.
<b>30. Applicable Law</b>	30.1 The Contract shall be interpreted in accordance with the Iraqi Law and guardianship of Iraqi judicial system.
<b>31. Notices</b>	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 <b>specified in the SCC</b> .
	31.2 A notice shall be effective when delivered or on the notice's effective date, whichever is later.
<b>32. Taxes and Duties</b>	32.1 A Supplier supplying Goods from abroad shall be entirely responsible for all taxes, stamp, duties, license fees, and other such

	levies imposed outside Iraq.
	32.2 A Supplier supplying Goods offered from within Iraq shall be entirely responsible for all taxes, duties, license fees, etc., incurred until delivery of the contracted Goods to the Purchaser.
<b>33. Withholding and lien in respect of sums claimed</b>	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 security, if any, deposited by the Supplier and for the purpose aforesaid, the Purchase shall be entitled to withhold the said cash security deposit or the security, 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 security being insufficient to cover the claimed amount or amounts or if no security 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 VIII. SPECIAL CONDITIONS OF CONTRACT

### Special Conditions of Contract

<p>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.</p>	
GCC 1.1 (h)	<p>The Purchaser is: <i>Ministry of Health / Environment/ The State Company. for Marketing Drugs &amp; Medical Appliances</i></p> <p><i>(KIMADIA)</i></p>
GCC 1.1 (m)	<p>The Supplier is: <i>[insert: name of Supplier]</i>.</p>
GCC 3	<p>- The name of the manufacturer, origin &amp; specification stated in the original offer cannot be changed as well as in the contract.</p> <p>- Required certificate of origin indicates that all goods are produced or manufactured in country of origin.</p>
GCC 6.2	<p>The Effective Date of the Contract is <i>[insert: date of Contract signing if either:</i></p> <p><i>(i) the Goods have already been registered at the time of Contracting signing or</i></p> <p><i>(ii) registration of the Goods is not a requirement under the Applicable Law.</i></p> <p><i>Otherwise, delete and insert “NOT USED.”]</i></p>
GCC 7	<p>Statement to the ownership of the designs, maps, &amp; descriptions.</p>

GCC 8	<b>Performance Bond:-</b> Seller is required to submit an un-provisional performance bond of (5%) of the contract value )issued by the beneficiary exclusively valid for contract execution period , until the end of executing all the contractual requirements , and it should be issued from a dependable Iraqi bank ,valid from date of its issue until fulfill all contractual requirements , & such performance bond should issue in Arabic & English languages.
GCC 9.1	<p>1- Only the specialized manufacturing &amp; supplying companies exclusively have the right to submit their update products according to our dependable specifications which are offered in our invitation ISO certificate &amp; other international dependable certificates in addition to the introduction letter showing the companies projects ,should be submitted with the offers.</p> <p>2- The supplier should submit inspection certificate with other documents issued by international Inspection company like the Swiss company ( SGS) &amp; the French company (BUREAU VERITAS) they should inspect any kind of goods in manufacturing place before export , in case of bad quality manufacturing or in complying with specifications they should submit a report of its bad quality or in complied then Inspection certificate will not be issued and any amount will not be paid for the goods.&amp; ALL the consignments imported by any country or foreign company should be inspected &amp; checked in the origin country.</p>
GCC 9.2	<p>“9.2.1. (a) Said inspection and testing is for the Purchaser’s account. In the event that inspection and testing is required prior to dispatch, the Goods shall not be shipped unless a satisfactory inspection and quality control report has been issued in respect of those Goods.</p> <p>(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.</p> <p>(c) Upon receipt of the Goods at place of final destination, the Purchaser’s representative shall inspect the Goods or part of the Goods to ensure that they conform to the condition of the Contract and advise the Purchaser that the Goods were received in apparent good order. The Purchaser will issue an Acceptance Certificate to the Supplier in respect of such Goods (or part of Goods). The Acceptance Certificate shall be issued at the earliest within <i>insert</i> “ten (10) days” <i>or</i> “thirty</p>

	(30) days”] of receipt of the Goods or part of Goods 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.”}
	“9.2.1 The inspections and tests may be conducted on the premises of the Supplier or its subcontractor(s), at point of delivery and/or at the Goods final destination. If conducted on the premises of the Supplier or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data - shall be furnished to the inspectors at no charge to the Purchaser.
	9.2.2 Should any inspected or tested Goods fail to conform to the specifications, the Purchaser may reject the goods and the Supplier shall either replace the rejected Goods or make alterations necessary to meet specification requirements free of cost to the Purchaser.
	9.2.3 The Purchaser's ( or who representative him) right to inspect, test and, where necessary, reject the Goods after the Goods' arrival at Project Site shall in no way be limited or waived by reason of the Goods having previously been inspected, tested and passed by the Purchaser or its representative prior to the Goods shipment.”}
GCC 10.2	<p><b><i>Packing and shipment documents</i></b></p> <p><i>1. Packing must be excellent and inside safe boxes to protect materials from damage, breakage and shortage.</i></p> <p><i>2. The packing material, which is of plant origin, should be clear from insect &amp; blights.</i></p> <p><i>3. The seller has to put dark blue ribbon with the mark(M.O.H) printed in the middle of the external package on the trucks concerning the ordered consignments by the buyer and the trade mark of the seller.</i></p> <p><i>4. Manufacturer name, country of origin and validity date (expiry)</i></p>



	<p><i>should be printed on the internal and external cover for each package.</i></p> <p>5. <i>marking on the external cover for each package should be well printed showing the {M.O.H mark, order No., L/C No., name of beneficiary and number of pieces inside the package} each package contains a copy of the packing list and all necessary commercial documents.</i></p> <p>6. <i>All the labels on each package should be written in English .</i></p> <p>7. <i>The order should be arranged in pallets with cartons shrink wrapping and clear labels about the contents of each carton according to the ISO specifications. Pallets should be with the following dimension to facilitate transportation:</i></p> <p><i>Length 1200 mm</i></p> <p><i>Width 1000 mm</i></p> <p><i>Height 1000 mm (including the height of pallet base)</i></p> <p><i>Weight is not more than 800 kilos for each pallet.</i></p> <p>8. <i>Medical items should be shipped in closed pallet covered by nylon and placed on a</i></p> <p><i>wooden basis.</i></p> <p>9. <i>The seller should fix the serial no. for each equipment on a ribbon outside each carton.</i></p> <p>10. <i>Delivery time should be As Soon As possible within L/C validity, partial shipping is allowed.</i></p>
GCC 11.1 & 11.3	<p><b><i>For Goods supplied from abroad:</i></b></p> <p>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 <i>of forty-eight (48) hours</i> 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:</p>

1. (i) Three originals and two copies of the Supplier's invoice, showing Purchaser as *[Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances (KIMADIA)]*; the Contract number, Goods description, quantity, unit price, and total amount. Invoices must be signed in original, stamped, or sealed with the company stamp/seal;
2. (ii) one original and two copies of the negotiable, clean, on-board through bill of lading marked "freight prepaid" and showing Purchaser as *[Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances (KIMADIA)]* 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;
3. four copies of the packing list identifying contents of each package;
4. one copy of the Insurance Certificate, showing the Purchaser as the beneficiary;
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 & **6 copies** 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;
7. original copy of the Certificate of Inspection **6 copies** furnished to Supplier by the nominated inspection agency and six copies (where inspection is required);
8. 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:

- (i) two originals and two copies of the Supplier's invoice, showing Purchaser, the Contract number; Goods' description, quantity, unit price, and total amount. Invoices must be signed in original and stamped or sealed with the company stamp/seal;
- (ii) two copies of delivery note, railway consignment note, road consignment note, truck or air waybill, or multimodal transport document showing Purchaser as [ *Ministry of Health / Environment/ The State Company. for Marketing Drugs & Medical Appliances (KIMADIA)* ] and delivery through to final destination as stated in the Contract;
- (iii) copy of the Insurance Certificate, showing the Purchaser as the beneficiary;
- (iv) four copies of the packing list identifying contents of each package;
- (v) one original of the manufacturer's or Supplier's Warranty certificate covering all items supplied;
- (vi) one original 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;
- (vii) original copy of the Certificate of Inspection **6 copies** furnished to Supplier by the nominated inspection agency and six copies (where inspection is required)
- (viii) 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.

	<p><b><i>In addition to what is said above :</i></b></p> <ol style="list-style-type: none"> <li>1. Submitting a sell receipt, insurance bill &amp; certificate of origin with each offer stating that the goods are completely produced in the country of origin and that non of the parts ,raw materials or production are Israeli origin and should bear the following certificate "The manufacturer or producer is not a branch or company listed in the Israeli boycott black list and should be certified by the Iraqi embassy , chamber of commerce , ministry of foreign affairs or notary public in the country of origin also to be certified by Iraqi foreign affairs stating that the seller will deliver the goods to Iraq</li> <li>2. Delivery time should be as soon as possible , within the L/C validity.</li> <li>3 . All the suppliers are to abide by the contract conditions and to submit shipping documents on arrival of the goods and the responsibility of any shortage or delay relating to the non – availability of shipping documents lies on the supplier</li> <li>4. Each shipment should include three shipment sets &amp; three copy sets or complete sets addressed to the medical &amp; service equipment imort department .</li> <li>5. The seller has to deliver the shipped goods to Kimadia stores with insurance and freight (CIP) and does not disengage from this obligation until organizing proper unloading minutes at the delivery place agreed upon.</li> <li>6. Supplying the agreed consignment received according to the official unloading minute in the agreed receiving site.</li> <li>7 . Delivery of the consignment As Soon As possible within the L/C validity &amp; schedule shipment will be according to the kimadia needs &amp; the difference in delivery time will be one of the component factors.</li> <li>8. The period of issuing the receiving certificate should be (15 days)from date of the consignment arrival to the supplying place stated by the first party &amp; the final receipt will be within (15 days).</li> <li>9. The receipt of goods does not consider an acknowledgement to be matched with the specifications and technical conditions but it depends on the labs tests issued from the specialized offices.</li> <li>10. Three sets of shipping documents should be sent with each consignment together with 3 other sets to medical &amp; service</li> </ol>

	<p>equipment import dep Include the following :</p> <ul style="list-style-type: none"> <li>- Commercial invoices for the seller in one original copy and 6 copies evidencing shipment to port of destination .</li> <li>- Full set truck consignment note \ CMR three original.</li> <li>- Certificate of quality analysis and packing quality.</li> <li>- Documents should be send to the buyer immediately before shipping the goods .</li> <li>- Contracts No. should be stated on all documents invoices and correspondence of contract .</li> </ul> <p>11. The supplier adheres to pay charges of failure mark ( not benefit to used ( MOH.Kim) on the failed quantities or not applicable to the descriptions in kimadia stores.</p> <p>12. The seller supply us with confirm certificate that the raw material for plastic items should be free from any PVC (poly viny chloride).</p>
GCC 13	<p>1. The seller is requested effect shipment of consignment in new vessels having forklifts with quick capacities for unloading the containers.</p> <p>2. In case the land transporting two entry points at least, should be stated in the offer .</p> <p>3. Shipment &amp; unloading the consignment &amp; its tools should be arrived through the Iraqi ports with considering the technical &amp; economic conditions in this field &amp; depend on marines transferring contracts which assure the delivery of consignment to the Iraqi ports &amp; avoiding the neighbor ports .</p>
GCC 15	
	<p>“15.1 All goods must be of fresh manufacture and must bear the dates of manufacture and expiry. The Supplier further warrants that all Goods supplied under the Contract will have remaining a minimum of five-sixths (5/6) of the specified shelf life upon delivery at port/airport of entry for goods with a shelf life of more than two years and three-fourths (3/4) for goods with a shelf life of two years or less, unless otherwise specified herein; have “overages” within the ranges set forth in the Technical Specifications, where applicable; are not subject to recall by the applicable regulatory authority due to unacceptable quality or an adverse drug reaction; and in every other respect will fully comply in all respects with the Technical Specifications and with the conditions laid down in the Contract.</p>
	<p>15.2 The Purchaser shall have the right to make claims under the above warranty for three months after the Goods have been delivered to the final destination indicated in the Contract. Upon receipt of a written notice from the Purchaser, the Supplier shall, with all</p>

	reasonable speed, replace the defective Goods without cost to the Purchaser. The Supplier will be entitled to remove, at his own risk and cost, the defective Goods once the replacement Goods have been delivered.
	15.3 In the event of a dispute by the Supplier, a counter analysis will be carried out on the manufacturer's retained samples by an independent neutral laboratory agreed by both the Purchaser and the Supplier. If the counter analysis confirms the defect, the cost of such analysis will be borne by the Supplier as well as the replacement and disposal of the defective goods. In the event of the independent analysis confirming the quality of the product, the Purchaser will meet all costs for such analysis.
	15.4 If, after being notified that the defect has been confirmed pursuant to GCC Sub-Clause 15.2 above, the Supplier fails to replace the defective Goods within the period for the replacement of defective goods of <i>[insert period for replacement of defective goods]</i> , the Purchaser may proceed to take such remedial action as may be necessary, including removal and disposal, at the Supplier's risk and expense and without prejudice to any other rights that the Purchaser may have against the Supplier under the Contract. The Purchaser will also be entitled to claim for storage in respect of the defective Goods for the period following notification and deduct the sum from payments due to the Supplier under this Contract.
	15.5 <i>Recalls.</i> In the event any of the Goods are recalled, the Supplier shall notify the Purchaser within fourteen (14) days, providing full details of the reason for the recall and promptly replace, at its own cost, the items covered by the recall with Goods that fully meet the requirements of the Technical Specification and arrange for collection or destruction of any defective Goods. If the Supplier fails to fulfill its recall obligation promptly, the Purchaser will, at the Supplier's expense, carry out the recall.”}
	“15.1 The Supplier warrants that the Goods supplied under this Contract are new, unused, of the most recent or current models and that they incorporate all recent improvements in design and materials unless provided otherwise in the Contract. The Supplier further warrants that all Goods supplied under this Contract shall have no defect arising from design, materials or workmanship (except when the design and/or material is required by the Purchaser's Specifications) or from any act or omission of the Supplier, that may develop under normal use of the supplied Goods in the conditions prevailing in the country of final destination.

	<p><b>Shelf life</b></p> <p>- Shelf life should be mentioned for consumable items &amp; that have Shelf life .</p> <p>-The supplied goods after the award should be up to date manufactured batches, not more than (6) months old upon arrival to the state company for marketing drugs and medical appliances / Kimadia / stores for the materials with three years or more shelf life, and not more than (3) months old for materials with 2 years shelf life and it should be unused and perfectly pursuant to the awarded specifications.</p>
	<p>15.2 This warranty shall remain valid for <i>[insert number]</i> months after the Goods or any portion thereof as the case may be, have been delivered to and accepted at the final destination indicated in the Contract, or for <i>[insert number (x + 6)]</i> months after the date of shipment from the place of loading in the country of origin whichever period concludes earlier.</p> <p><b>Note: The value of 'x' months need to be fixed based on market survey. Generally, it is 12 months. }</b></p>
	<p>15.3 The Purchaser shall promptly notify the Supplier in writing of any claims arising under this warranty</p>
	<p>15.4 Upon receipt of such notice, the Supplier shall, within the period <i>[Insert number of day(s), advised as 14 days]</i> days and with all reasonable speed, repair or replace the defective Goods or parts thereof, without cost to the Purchaser other than, where applicable, the cost of inland delivery of the repaired or replaced Goods or parts from ex-works or ex-factory or ex-showroom to the final destination.</p> <p><b>-the supplier adheres to put failure mark ( unfavorable used) (MOH.KIM) on the failure quantity or that which is not applicable in descriptions in kimadia stores.</b></p>
	<p>15.5 If the Supplier, having been notified, fails to remedy the defect(s) within the period specified in SCC, the Purchaser may proceed to take such remedial action as may be necessary, at the Supplier's risk and expense and without prejudice to any other rights which the Purchaser may have against the Supplier under the Contract.</p>
	<p>15.6 <i>[ insert Not applicable or</i></p> <p><i>for critical medical equipment insert as under:</i></p> <p><i>X% [insert such as 95% or 98%] UPTIME warranty during Warranty Period should be provided. Downtime (100-x) % [insert such as 5% or 2%] during warranty period will extended warranty period by double the downtime period.]”}</i></p>

**Compensation**

- 1- The seller is responsible to compensate the Buyer for the damage goods which are occurred after the distribution for manufacturing abuse .
- 2- The seller should compensate the Bayer for the damage goods ( failure in analysis , shortage items & not applicable to the descriptions & missing items ) within the same supplying period stated in the official contract , starting from received notice , while other shipments should be shipped within the same shipment schedule from date of the shipping compensate quantity , otherwise , kimadia has the right to impose delay penalties within the same stated percentage on the penalties article ( a ) & purchase the items from other supplier on account of the seller in addition to impose administrative charges & paying differences in prices & confiscated all the guarantees & submit the seller before the courts to get their rights.
- 3.The supplier should remove the unaccepted (failed) goods from Kimadia stores within 45 days from date of notification, otherwise Kimadia has the right to damage the failed items and incompatible with specifications on the supplier account and subtraction the right of the seller for getting back the materials and considered to be waived for all his rights related to those materials.
- 4.The consignment are not dispensed in M.O.H stores after their expiration will be subjected to compensation by the seller 100% .
- 5.Goods not dispensed from kimadia stores after expiration date are subjected to compensation by the seller 100% with 20% administrative charges covers from the total of all expired & failed qty & a delay penalty will be imposed in case of the compensated qty doesn't effected in the same and ratio agreed upon stated in the penalty article & buy the item from another supplier on account the seller in addition to administrative charges & the seller pay the differences in prices & confiscating all the insurances & submitting the seller to the concerning courts to get their rights.
- 6.The seller is responsible to compensate the buyer for the defected items due to bad manufacturing.
- 7.Any amount on account the second party resulted from any infringement for any obligation , the first party has the right to require before the concerning courts & the breaching if it is get its right.
- 8.The second party should assure the hiding failures which are occurred in the items & any failure for a period which is equaled & that which have no shelf life assured the failures for 5 years starting from date of occurring the tests results.



GCC 16.1	<p><b>{ Payment for Goods supplied from abroad:</b></p> <p>Payment of foreign currency portion shall be made in [ <i>insert: currency of the Contract Price</i> ] in the following manner:</p> <p>The payment way is to be depended as follows :-</p> <p><b>The payment way is to be depended as follows:-</b></p> <ul style="list-style-type: none"> <li>- <b>Through irrevocable unconfirmed L/C</b></li> <li>-25% upon submit shipping documents applicable to the L/C articles.</li> <li>-75% from the devices value will be paid as follows: <ul style="list-style-type: none"> <li>-55% upon completing installation &amp; operation of equipments &amp; effecting the abroad &amp; local training &amp; will be released against issuing confirmation letter by our side to corresponding bank in which will state that the supplier has finished installation &amp; operation of device successfully .</li> <li>-15% upon completing whole contract's requirements ( warranty &amp; maintenance) &amp; all other requirement .</li> </ul> </li> <li>- L/C effectiveness starting from the date of L/C notification by the supplier &amp; he should adhere to the delivery period, from the L/C notification date &amp; in case that the L/C notification has not been received by the supplier for an extraordinary reasons occurred to the supplier &amp; his corresponding bank , then the approved shipment date will be depend on the L/C notification date or the amendments of the L/C opening letter according to the letter issuing from our firm to the L/C opening bank &amp; this is the dependable date of shipment.</li> <li>- (5% ) from the total value of the contract which represent the warranty of the descriptions of the supplying units not to be released until executing the contractual conditions &amp; finishing the warranty &amp; maintenance period.</li> </ul> <p><b>Payment for Goods and Services supplied from within Iraq shall be made in Iraqi Dinar, as follows:</b></p> <ol style="list-style-type: none"> <li>a. In case un-direct supplying: ( the Iraqi supplier will supply the goods(equipment or spare parts abroad Iraq ( the goods will be manufactured after contracting , which means that they are abroad Iraq then will be transferred to the</li> </ol>
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	<p>kimadia stores ) .</p> <p>The payment condition will be as the following :</p> <ol style="list-style-type: none"> <li>1. 35% ( from the contract amount or from shipment amount ) as first payment paid upon receiving the goods or equipment &amp; entering in stores officially .</li> <li>2. 30% (from the contract amount or from shipment amount) as second payment after completing installation , operation &amp; issuing checking , applicable , training &amp; entering in service officially decision &amp; confirming the beneficiary party.</li> <li>3. 30% (from the contract amount or from shipment amount)after warranty &amp; maintenance will be divided according to the period stated in the contract inside Iraq.</li> <li>4. 5% from the warranty descriptions paid after completing all the contractual obligations.</li> </ol> <p>b. b- In case un-direct supplying: ( the Iraqi supplier will supply the goods(equipment or spare parts abroad Iraq ( the goods will be manufactured after contracting , which means that they are abroad Iraq then will be transferred to the kimadia stores ) .</p> <ol style="list-style-type: none"> <li>1. 65% ( from the contract amount or from shipment amount ) <b>after completing the following :</b> <p><b>-receiving the consignment &amp; entering in stores officially</b></p> <p><b>- installation ,</b> installation , operation &amp; issuing checking , applicable , training &amp; entering in service officially decision &amp; confirming the beneficiary party.</p> </li> <li>2. 30% (from the contract amount or from shipment amount)after warranty &amp; maintenance will be divided according to the period stated in the contract inside Iraq.</li> </ol>
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	<p>3. 5% from the warranty descriptions paid after completing all the contractual obligations.</p> <p><b>D Payment for Annual Maintenance Contract Charges</b></p> <p>The Purchaser will enter into Annual Maintenance Contract (AMC) with the supplier at the rates as stipulated in the Contract. The payment of AMC will be made on yearly basis after satisfactory completion of said period, duly certified by the End-user. If UPTIME warranty is applicable as per Schedule of Requirements the period of AMC will be extended by double down time period.}</p>
GCC16.3	<p><i>[Insert: "paid the lot or lots"</i></p> <p>1- <i>All the bank charges imposed on opening the L/C inside &amp; outside Iraq will be on the seller account.</i></p> <p>2- <i>Full name and address of corresponding bank, which include the account holder name which should be applicable to the name of the supplier.</i></p>
GCC18.2	<p><i>In addition to what have said in GCC :</i></p> <p>3. <i>kimadia should be supplied with an additional or less Qty. according to its request in a (%) agreed upon with the same prices and conditions if the buyer requested that within the contract execution period .</i></p>
GCC19.	<p><i>The bidder has no right to erasure or amend any contractual conditions what ever it is.</i></p>
GCC 20.1	<p><i>[ Advisable to Insert: "Assignment shall not be accepted"</i></p> <p><i>It is permitted to mortgage the contract for the benefit to the dependable banks in Iraq ( financial over dues) according to the planning ministry obligations.</i></p> <p><i>The seller has no right to make assignment for the contract or transferred to another person for any reasons.</i></p>
GCC 21	<p><i>IN addition to what are stated in the GCC :</i></p> <p><i>First: - the contractor has to execute the contract terms within the contract period and to be calculated from the starting date or from the contract signature date or any other date stated in the contract.</i></p>

	<p>The following points should be taken in consideration when extending the Contracts:-</p> <p>a. If there is an increase occurred or change in works for the different contracts or in the required quantities or qualities to be supplied and all this is to influence the execution procedures, since it cannot be finished within the period agreed upon in the original contract.</p> <p>b. If the delay to execute the contract for reasons or procedures relates to the contracting party or any party authorized legally or any reason relates to other contractors used by the contracting party (the seller)</p> <p>c. Any exceptional circumstances occurred after contracting and the contractors have nothing to do with them and could not be expected or avoided at contracting which caused a delay in finishing the jobs or supplying the required goods according to the contract.</p> <p>Second: - to effect this term, the contractor should submit written request to the contracting party or through their representative within (15 days) for supply contracts starting from the date where the cause behind the extension has arisen states in it the complete accurate details for the extension requests. No extension requests are accepted after issuing initial received certificate stated in the contract conditions.</p> <p>Third: the supplier could ask to confirm the L/C on his account provided that it should be within his offer.</p> <p>Fourth : the seller should submit the buyer with written request include extend the L/c within 15 days from the date of causing the reason of the extension clarifying all details for each required extension .</p>
GCC 22	<p><b>Penalties:</b></p> <p><b>1.delay penalties :</b></p> <p>a.The seller has to deliver the items according to shipping schedule and delivery, otherwise a delay will be imposed for each day delay without any future notice according to the following equation amount of contract (amount of original contract + any changes in amount) / whole period of the contract (original period of the contract + any changes in period) x 10% =delay penalty for one day)</p> <p>Provided that penalty should not exceeded 10% from the total value of the contract &amp; after it reaches the maximum range , legal procedures</p>

	<p>will be taken , according to the texts of articles (No. 10 , 3) . stated in the execution contracts instructions No. 2 , 2014 .</p> <p>b. THE first party has the right to take the legal procedures against the second party after not respond to official warning letter within 15 days from date of this letter &amp; before the delay penalties reached the maximum range .</p> <p>c. Delay Penalties will be reduced according to the contractual obligations stated in contractual execution program in which issued initiative delivery certificate for achieved work or achieved commodity or requires service which should applicable &amp; prepared to use according to contractual conditions &amp; applied the following equation :</p> <p>( un-achieved obligations value / total contract validity) x (10%) = one day delay</p> <p>2..If the second party is not committed to carry out his commitments stated in the contract with the first party then the first party has the right to impose administrative charges .</p> <p>3.-The second party adheres to the ownership of contract consignment which have been delivered to the first party for represent un civil &amp; not blocked or under bank guarantee or under mortgaged otherwise legal procedures will be taken against the second party.</p> <p>4.In case the bidder is not committed to execute the contract , according to the agreed conditions , boycott procedures will be taken against him &amp; pause all the future contracting .</p> <p>5-when the bidder contractor hide very important details which are discovered later , A/M delay procedures will be taken against him.</p>
GCC. 27.2.2	<p>1-Iraqi courts in Baghdad is the party which taking party in any struggle is issued between the Bayer &amp; seller , &amp; Iraqi laws are that which apply in any dispute in applying the contract conditions.</p> <p>3- any amount in account of the second part is resulted to the</p>

	<p>infringement of any contracting condition , the first party has the Right to claim in the concerning courts &amp; confiscated .</p> <p>3- in case the supplier of commodities , services &amp; consultative is not committed to the contracting conditions , the contracting party has the right to issue an official warning , &amp; in case he is not committed the final securities &amp; execute the un-committed conditions on his account , according to the one of the stated methods in article no.3 from contracting execution instructions no. 2, 2014, when the special conditions are available , the uncommitted contractor has to pay the compensation on the damage concerning the contracting party for reasons of this infringement , according to the Iraqi laws.</p> <p><b>4-Administrative charges:</b> : the first party has the right to impose administrative fees on the second , party when he execute the second party obligations through contracting or by another person and in rate not exceed (20%) of the contract actual value. (in case the contract include civil works &amp; represent as contracting.)</p>
GCC 29	<p>-The contract is arranged in Arabic &amp; English languages &amp; the Arabic language represent the dependable language in case of there is a dispute excepting the technical terms , which could not translated to the Arabic .</p> <p>- the original contract copy signed by the two parties , which saved by the first party , for it is represent the effective copy in case there is a differences .</p>
GCC. 30	<p>- Any dispute that may arise between the seller &amp; the buyer should be settled through the Iraqi courts &amp; the Iraqi laws in Baghdad should be applied when a dispute arise regarding the application of this contract.</p> <p>- In case the bidder is not committed to execute the contract according to the agreed conditions , boycott procedures will be applicable against him &amp; pausing all the future contracts</p> <p>- the first party has to supply the second party with the official letters which are concern with contract execution without first party</p>

	being responsible of these letters results.
GCC.31	<p>[ insert: the Ministry of Health / Environment/ The State Company. for Marketing Drugs &amp; Medical Appliances(KIMADIA) for notice purposes and if by cable is acceptable ]</p> <p>[ insert: the Supplier's address for notice purposes and if by cable is acceptable ]</p> <p>-the awarding decisions are valid from date of awarding date within 14 days from date of awarding date.</p> <p>- The scientific bureau which represent the bidders is the party which is received the legal notifications</p>
GCC 32	<p>1- The collection of Government debts will be applicable as per the Iraqi Law for collecting government debts No.56 of year 1977.</p> <p>2- All the bank charges of L/C OPENING INSIDE &amp; OUTSIDE IRAQ WILL BE ON ACCOUNT THE SUPPLYER ( Seller) until consignment delivery to Kimadia stores .</p> <p>3-The awarding bidder WILL pay all the traffic fees.</p> <p>4-THE contract is under the Iraqi laws including taxes No. 113 in 1982 &amp; taxes account instructions for the contracts signed between Iraqi &amp; foreign authorities No. 2 , 2008 &amp; stamp fees No. 71,2012 , announcement fees &amp; re- announcement fees &amp; legal fees.</p> <p>5- In case there is an objection submitted by scientific bureau or the company for the import awarding (250,000 ID) (two hundred fifty thousand )Iraqi Dinners should be paid.</p> <p>6. In case there is a request to replace the entry point (100,000)ID (one hundred Iraqi Dinners) should be paid.</p> <p>7. Each unloading &amp; loading report &amp; analysis for each shipment arrived to the concerning store (25,000) Iraqi Dinners should be paid .</p> <p>8. Each night parking of medicine &amp; medical appliances trucks in kimadia stores(10,000) Iraqi Dinners will be paid.</p> <p>9-The supplier adheres to pay charges of failure mark ( not benefit to used ( MOH.Kim) on the failed quantities or not applicable to the</p>

	descriptions in kimadia stores.
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## Special Conditions of Contract

## SECTION IX. CONTRACT FORMS

### NOTES PREPARING THE CONTRACT FORMS

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The Sample Contract Forms provided in this SSBD provide standard formats for a number of the key documents that the Purchaser and Supplier will exchange in the process awarding and implementing the Contract.

*Form of Contract Agreement:* Except as indicated by blanks and/or instructions to fill in information, the text of the Contract Agreement should be left unaltered in the Bidding Documents from how it appears in this SSBD. It would be at the time of Contract award when the Contracting Entity has an opportunity to add the final details needed in the Contract Agreement form, by making any necessary insertions or changes to paragraph 2.

*Performance Security Form:* Pursuant to GCC Sub-Clause 8.1, the successful Bidder is required to provide the performance security within fourteen (14) days of notification of Contract award, or twenty-nine (29) days in case of Complaints and Appeal as per ITB 36.1.

*Advance Payment Bank Guarantee:* Pursuant to GCC Sub-Clause 16.1, the successful Bidder is required to provide a bank guarantee securing the advance payment, if SCC related to GCC Sub-Clause 16.1 requests for one.



**CONTRACT FORMS**

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1. Form of Contract Agreement ..... 98

2. Performance Security Bank Guarantee ..... 100

3. Bank Guarantee Form for Advance Payment ..... 101

## 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 goods and ancillary services, viz., [ *insert: brief description of goods and services* ] and has accepted a bid by the Supplier for the supply of those goods 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 Goods 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 Goods 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. Performance Security Bank Guarantee

*[The Bank shall fill in this Bank Guarantee Form in accordance with the relevant conditions of Contract.]*

\_\_\_\_\_ *[insert: **Bank's Name and Address of Issuing Branch or Office**]*

**Beneficiary:** \_\_\_\_\_ *[insert: **Name and Address of Purchaser**]*

**Date:** \_\_\_\_\_

**PERFORMANCE GUARANTEE No.:** \_\_\_\_\_

We have been informed that *[insert: **name of Supplier**]* (hereinafter called "the Supplier") has entered into Contract No. *[insert: **reference number of the contract**]* dated \_\_\_\_\_ with you, for the supply of *[insert: **description of goods**]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, a performance guarantee is required.

At the request of the Supplier, we *[insert: **name of Bank**]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert: **amount in figures**]* (\_\_\_\_) *[insert: **amount in words**]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Supplier is in breach of its obligation(s) under the Contract, without your needing to prove or to show grounds for your demand or the sum specified therein.

This guarantee shall expire no later than the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_, and any demand for payment under it must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458, except that subparagraph (ii) of Sub-article 20(a) is hereby excluded.

\_\_\_\_\_  
*[signature(s)]*

### 3. Bank Guarantee Form for Advance Payment

*[The Bank shall fill in this Bank Guarantee Form in accordance with the relevant conditions of Contract.]*

\_\_\_\_\_ *[insert: **Bank's Name and Address of Issuing Branch or Office**]*  
**Beneficiary:** \_\_\_\_\_ *[insert: **Name and Address of Purchaser**]*  
**Date:** \_\_\_\_\_

**ADVANCE PAYMENT GUARANTEE No.:** \_\_\_\_\_

We have been informed that *[insert: **name of Supplier**]* (hereinafter called "the Supplier") has entered into Contract No. *[insert: **reference number of the contract**]* dated \_\_\_\_\_ with you, for the supply of *[insert: **description of goods**]* (hereinafter called "the Contract").

Furthermore, we understand that, according to the conditions of the Contract, an advance payment in the sum *[insert: **amount in figures**]* (\_\_\_\_\_) *[insert: **amount in words**]* is to be made against an advance payment guarantee.

At the request of the Supplier, we *[insert: **name of Bank**]* hereby irrevocably undertake to pay you any sum or sums not exceeding in total an amount of *[insert: **amount in figures**]* (\_\_\_\_) *[insert: **amount in words**]* upon receipt by us of your first demand in writing accompanied by a written statement stating that the Supplier is in breach of its obligation under the Contract because the Supplier used the advance payment for purposes other than toward delivery of the goods.

It is a condition for any claim and payment under this guarantee to be made that the advance payment referred to above must have been received by the Supplier on its account number \_\_\_\_\_ at \_\_\_\_\_ *[insert: **name and address of Bank**]*.

This guarantee shall expire, at the latest, upon our receipt of copy (ies) of \_\_\_\_\_<sup>3</sup>, or on the \_\_\_\_ day of \_\_\_\_\_, 2\_\_\_\_,<sup>4</sup> whichever is earlier. Consequently, any demand for payment under this guarantee must be received by us at this office on or before that date.

This guarantee is subject to the Uniform Rules for Demand Guarantees, ICC Publication No. 458.

*[Signature]*

<sup>3</sup> Insert documents establishing "delivery" of the goods in accordance with the particular INCOTERMS® selected. (See SCC 11.)

<sup>4</sup> Insert the delivery date stipulated in the original delivery schedule. The Purchaser should note that in the event of an extension of the time to perform the Contract, the Purchaser would need to request an extension of this guarantee from the Guarantor. Such request must be in writing and must be made prior to the expiration date established in the guarantee. In preparing this guarantee, the Purchaser might consider adding the following text to the form, at the end of the penultimate paragraph: "The Guarantor agrees to a one-time extension of this guarantee for a period not to exceed [six months/one year], in response to the Purchaser's written request for such extension, such request to be presented to the Guarantor before the expiry of the guarantee."