



Advertisement Form

General Competitive Bid (First Time)

No.: 1458  
Date: 5/6/2017

To / Gentlemen

Sub. / Complete heavy duty gear box units for cooling tower

388/2017/E

SOUTH REFINERIES COMPANY / STATE COMPANY is pleased to invite the qualified and experienced bidders to submit their bids to supply (**Complete heavy duty gear box units for cooling tower**), and note the following:

1. The qualified bidders who want to obtain additional information shall call CONTRACTS & PURCHASING DEPARTMENT - SOUTH REFINERIES COMPANY FROM SUNDAY - THURSDAY 08:00 AM TO 02:00 PM BASRA LOCAL TIME , as shown in the instructions to bidders.
2. The tender will be executed through the national competitive bidding procedures specified by the Instructions for Implementing Government Contracts issued by the Ministry of Planning No. (2) / 2014.  
The requisite qualification requirements: (a) financial capability, The Bidder shall submit documented evidence on its ability to meet the following financial requirements: 1- Final Accounts Profit rate for the past three consecutive years Authorized and audited by a Recognized Certified Accountant. 2-Cash liquidity equivalent to (520,000)\$Five hundred twenty thousand US dollars.(b)-Experience and technical capability, The Bidder shall submit documented evidence on its ability to meet the requirements of technical experience as follows: Provide evidence to prove outfitted with equipment (pumps, compressor, etc.) to oil companies or public sector companies in Iraq
3. Interested bidders can buy bid documents, after submitting written request to the address specified in the bid data sheet, and after paying the selling value of documents-nonrefundable whatever reason- amounts (200,000 Iraqi dinars).
4. The estimated amount of the tender is: (260,000) two hundred sixty thousand US dollars only.
5. The Bid Guarantee shall be submitted at a value of (5200) five thousand two hundred US dollars only in the form of a certified check or letter of guarantee or a Bank Transfer, valid for (28) days after the end of Bid's validity through an Iraqi bank accredited by the Central Bank of Iraq.
6. Technical and Commercial Offers shall be submitted in two separate and sealed envelopes. The envelopes shall be stamped with the stamp of the company and shall be sent by an authorized representative.
7. The bidder, who wins the tender, shall bear the fees of publishing and advertising of last announcement.
8. The bids are delivered to the following address: ROOM OF RECEIVING & OPENING BIDS COMMITTEE - SOUTH REFINERIES COMPANY- HEAD QUARTER -BASRA - REPUBLIC OF IRAQ at the specified date Ju: 2017. Late bids will be rejected, and the bids will be opened by the attendance of the bidders or their representatives. Attendance shall be at the following address:: ROOM OF RECEIVING & OPENING BIDS COMMITTEE - SOUTH REFINERIES COMPANY- HEAD QUARTER -BASRA - REPUBLIC OF IRAQ at the specified date: 12 July 2017-01:00 PM (BASRA LOCAL TIME) OR THE FOLLOWING DAY.
9. All terms and conditions are listed in the attached Standard Bid Document.
10. The bidder should be obliged to all parts of the standard bidding documents.

FOR/ General Director

24/05/2017

**Standard Bid Documents**

**Supplying of Commodities**

**Bid Documents**

**To supply the commodities**

**Complete heavy duty gear box units for cooling tower**

**General Competitive Bids: 388/2017- E**

**The Project:** Supply Complete heavy duty gear box units for cooling tower

**Contracting Party:** Ministry of oil/South Refineries Company

**Buyer:** South Refineries Company (SRC)



**Advertisement Form**

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No.:  
Date:

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**388/2017/E**

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FOR/  
General Director

## Standard Bid Documents to Supply the Commodities

### C o n t e n t s

#### **Part One– Contracting Procedures**

It contains the following sections:

- Section One : Instructions to Bidders**  
This section contains information that helps the bidders to prepare their bids. It provides information about delivering, opening and evaluating the bids, and contracts awarding. Section one contains conditions that must be used without amending.
- Section Two : Bid Data Sheet**  
This section contains the conditions about supplying operations and it is considered complementary to what is mentioned in section one.
- Section Three : Evaluation and Qualification Criteria**  
This section contains the criteria used to determine the bid with the lowest price, and qualification requirements which has to be fulfilled by the bidder to implement the contract.
- Section Four : Bid Forms**  
This section contains bid forms, schedule of prices and bid guarantee which must be submitted with it.
- Section Five : Eligible Countries**  
This section includes information about the eligible countries

#### **Part Two– Supplying Requirements**

It contains the following sections:

- Section Six : Schedule of Requirements**  
This section contains list of commodities and services related thereto, schedules of supplying and delivering methods, technical specifications, drawings that describe the related commodities and services which will be supplied.

### **Part Three–The Contract**

It contains the following sections:

**Section Seven : General Conditions of the Contract**

This section contains the general conditions that must be applied in each contract. The provisions of Paragraphs included in this section shall not be amended.

**Section Eight : Special Conditions of the Contract**

This section contains Paragraphs for each contract which amend or complete the general conditions of the contract included in section seven.

**Section Nine : Contract Forms**

This section contains the contract form that when filled, it will include corrections and amendments of the approved and admissible bid according to the instructions to bidders and the general and special conditions of the contract.

If it was required to submit it then "good performance guarantee form" and "advance payment guarantee" shall be completed and submitted by the winner bidder only after awarding the contract.

## **Part One**

### **Contracting Procedures**

#### **For the Contracts of Supplying Commodities**

**Section One: Instructions to Bidders**  
**For the Contracts of Supplying Commodities**

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## **Section One: Instructions to Bidders**

### **A. General**

#### **1- Scope of Bid**

- 1-1- The buyer, as defined in the Bid Data Sheet, shall issue these tender documents for the acquisition of commodities and related services as stated in section six: schedule of requirements. The bid data sheet shall state this general competitive bid's name and number as well as the name, definition and number of items required.
- 1-2- If mentioned in the tender documents, the following definitions shall be considered:
- a- "in writing" means any method of written communication (mail, email, fax), with proof of receipt thereof.
  - b- The singular is used to describe the plural and vice-versa.
  - c- "Day" means a Gregorian calendar day,

#### **2- Financing Resource**

Financing shall be obtained from the amounts allocated for the project in the Federal Budget of the Government of Iraq. The bid data sheet shall state the project's name and number.

#### **3- Fraud and Corruption**

- 3-1- The Buyer requires that the Bidders, suppliers, contractors and advisors shall comply with the ethical standards throughout the process of contracting and execution of contract. In order to achieve this policy,
- a- The Buyer considers the following definitions for this purpose:
    - First: "Corrupt Practices" means offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence the actions of a public official throughout the acquisition process or contract execution.
    - Second: "Fraudulent Practices" means any misrepresentation or omission of any fact in view to influence the outsourcing process or contract execution.
    - Third: "Collusive Practices" means any scheme of arrangement between two or more Bidders, with or without knowledge of the buyer, in view to establish artificial and noncompetitive prices.
    - Fourth: "Coercive Practices" means harming or threatening to harm, directly or indirectly, the persons or their properties to influence their participation in the acquisition processes or influence the contract execution.
    - Fifth: "Obstructive Practices" means:
      - (1) To destroy intentionally, falsify, distort documents and conceal investigation-required evidences or give false testimony to investigators to obstruct the Buyer's investigation procedures in the corrupt, fraudulent, collusive, coercive practices or threaten, provoke or obstruct any party and prevent it from giving any investigation-related information or prevent it from following up the investigation procedures.

(2) The practice that obstructs the Buyer from following up the auditing and revision procedures, as per 3-1(d) hereinafter.

b- The Buyer may reject the awarding recommendations if it is proved that the Applicant is involved, directly or through an agent, in a corrupt, fraudulent, collusive, coercive or obstructive practice during its competition on the relevant contract.

c- The Buyer may impose penalties on organizations or individuals, including declaring ineligibility, whether **for definite or indefinite term**, if it is proved that they are involved, directly or through an agent, in a corrupt, fraudulent, collusive, coercive or obstructive practice during competition or during the execution of a Buyer-funded contract.

d- The Buyer shall have the right to add to the Bidding Documents and the contracts a condition stipulating that Bidders, suppliers, contractors and advisors shall permit the Buyer or its appointed auditors to inspect or audit their accounts, registers and any documents related to the bid submission and contract execution.

3-2- In addition, the Bidder shall have acquainted with the obligations stated in 35-1 (A/3) General Conditions of Contract in this respect.

#### **4- Eligible Bidders**

4-1- The Bidder and all parties thereof may be citizens of any country according to the contracts stated in section five: eligible countries. The Bidder holding citizenship of a country shall be either a citizen thereof or have incorporated a company, registered or doing business according to provisions of laws such country.

These standards shall be applied to identify the citizenship of any subcontractor or supplier for any part of the contract, to include the services related thereto.

4-2- Bidders shall not have any conflict of interests; shall be disregarded any applicant proved to be involved in conflict of interest with a Party or another in the process of submitting the bid in each of the following events:

a- If it has, or had, with relation with the contractor's company or a subsidiary thereof to offer advisory services for the purpose of setting up the design, specifications or other documents used to determine the commodities to be supplied through the documents of the Bid.

b- If more than Bid is submitted to the tender, unless alternative bids, if permitted as per 13/Instructions to Bidders, are submitted. In any case, this condition does not prevent contractors from submitting more than a bid.

4-3- The Bidder that has been **disqualified** by the Buyer as per 3/Instructions to Bidders, shall be disregarded on the date of awarding the contract. A list of the disregarded companies is available on the Buyer's URL mentioned in the bid data sheet. Also shall be disregarded any bidder that is **disqualified, suspended or banned** by the Legal Department or the Public Government Contracts Department of the Ministry of Planning and Developmental Cooperation.

4-4- Iraqi Government owned organizations are eligible to participate in bidding, if they meet the two following conditions: (1) they are legally and financially independent, and (2) according **to the Trade Law and State Companies Law**.

4-5- The Bidders shall prove their continuous qualification to the Buyer's satisfaction, according to reasonable qualification requirement

### **5- Eligible Commodities and Related Services**

5-1- All commodities and related services in accordance to the contract funded by the Buyer shall be from the eligible countries (origins).

5-2- For the purpose of this Clause, the term "commodities" means various commodities such as raw materials, instruments, equipments, industrial facilities. Also, the term "relevant services" means services such as insurance, installation, training and primary maintenance.

5-3- The term "origin" means the country from which the commodities are extracted, produced, planted, processed or manufactured, or through manufacturing, processing or assembling produce commercial commodities that have drastically different basic properties than their components.

## **B- Contents of Tender Documents**

### **6- Parts of Tender Documents**

6-1- Tender documents are composed of three sections containing all the sections stated hereinafter and the latter shall be read in conjunction with any annex to be issued according to Para eight/Instructions to Bidders.

#### **Part One – Contracting Procedures**

- Section One : Instructions to Bidders
- Section Two: Bid Data Sheet
- Section Three: Evaluation and Prequalification Criteria
- Section Four: Bid Forms
- Section Five: Eligible Countries

#### **Part Two – Supply Department Requirements**

- Section Six: Table of Requirements

#### **Part Three – The Contract**

- Section Seven: General Conditions of the Contract
- Section Eight: Special Conditions of the Contract
- Section Nine: Contract Forms

6-2- The announcement of the invitation issued by the Buyer is not considered part of the tender documents.

6-3- If the tender documents and its annexes are not received by the Buyer directly, the latter shall not be responsible for completeness thereof.

6-4- The Bidder shall check all the instructions, forms, terms and specifications contained in the tender documents. Failure by the Bidder to provide all the information and documents required in the tender Documents may result in rejecting the Bid.

## **7- Clarification of Tender Documents**

7-1- When it is required to clarify or interpret any of the information of the tender documents, the Bidder shall send a letter to the Buyer according to its address stated in the bid data sheet. The latter shall reply in writing to any questions it receives provided that they are received ten days before the bid submission deadline to which the period of announcement is determined by (15) days. The Buyer shall determine the deadline to receive questions for those to which the announcement period exceed the (15) days stated in the bid data sheet, the Buyer shall send a copy of its reply to such questions to all those who received the tender documents directly therefrom, to include the description of question, without stating its source. If the Buyer deems it necessary to amend the tender documents due to such questions, it shall conduct the same according to the procedures stated in articles (8) and (22-2).

## **8- Amendment of Tender Documents**

8-1- The Buyer may amend the tender documents any time before the tender deadline, by issuing annexes thereto.

8-2- Annexes are considered part of the tender documents and shall be circulated in writing to all those who received tender documents directly from the Buyer.

8-3- The Buyer shall have the right to extend the tender deadline as per 24-2/Instructions to Bidders to give the Bidders ample time to consider the amendments stated in the Bid's annex.

## **C- Preparation of Bids**

### **9- Cost of Bid**

9-1- The Bidder is charged with the total cost resulting from setting up and submitting its Bid. The Buyer shall not be liable for such costs regardless of the results of Bids analysis.

### **10- Language of the Bid**

10-1- The bid and all the correspondence and the documents exchanged between the bidder and the contracting party must be prepared in the language referred to in the paper of bid data. The bidder submit and of the literature related thereto which constitute part of his bid in another language, provided that it must be accompanied with an accurate translation for its texts to the language of the bid. Hence the translation will be accepted for the purpose of interpreting the bid.

### **11-Documents Comprising the Bid**

11-1- The Bid is made up of the following documents:

- a- Bid's form and the un-priced bill of quantities used according to 12, 14, 15/Instructions to Bidders.
- b- Bid's security as per 21/Instructions to Bidders, if required.
- c- Written confirmation of the authorization to the Bid's signatory according to a notarized power of attorney as per 22/Instructions to Bidders.
- d- Information certifying the eligibility of Bidder to submit its Bid according to 16/Instructions to Bidders.
- e- Authenticated documents certifying that all the commodities and related services offered by Bidders are from eligible origins as per 17/Instructions to Bidders.

- f- Authenticated documents certifying conformance of the commodities and related services to what is required in the tender documents, according to articles 18 and 39/Instructions to Bidders.
- g- Information certifying the Bidder's prequalification to execute the contract if the contract is awarded in its favor, according to article 19/Instructions to Bidders.
- h- Any other document stated in the bid data sheet.

### **12-Bid Submission Form and Priced Bill of Quantities**

12-1- The Bidder shall employ the **Bid's Submission Form** mentioned in **section four**: Bid Forms. The form shall be filled-out without any change to its format, no substitutes are accepted. All blank spaces shall be filled out with the required information.

12-2- The Bidder shall deliver the priced bills of quantities for the commodities and related services as per their origin, employing the forms in **section five**: bid forms.

### **13-Alternative Bids**

13-1- Alternative bids shall not be considered, unless the bid data sheet states otherwise.

### **14-Bid Prices and Discounts**

14-1- Prices and discounts offered in the Bid Form and the Priced Bill of Quantity shall comply with the specified requirements.

14-2- All items and commodities shall be listed and price separately in the Priced Bill of Quantity. If the table contains un-priced items, shall be assumed that there prices are covered by other items. An items or commodities not stated in the Priced Bill of Quantities shall be considered as uncovered by the Bid. Amendment can be made according to Para 31/Instructions to Bidders.

14-3- The price shown in the Bid Form is the Bid's Total Price, excluding any discount offered.

14-4- The Bidder shall state any unconditional discounts and shall demonstrate in the Bid Form how these can be used.

14-5- EXW, CIP, CIF, C&F and other similar terms are subject to the regulation stated in the applicable Incoterms version issued by the International Chamber of Commerce, as indicated in the Instructions to Bidders.

14-6- Prices offered by the Bidder shall be fixed throughout the term of contract execution and not liable to change under any circumstance, unless the bid data sheet states otherwise.

14-7- Bids may be offered individually (Single Contract) or seParated into several parts (number of contracts) if the same is stipulated in Para 1-1/Instructions to Bidders. The said prices shall be according to

100% of the items specified to each part and to 100% of their quantities, unless the bid data sheet states otherwise. The applicants interested in offering price discount, in the event of awarding more than one part in their favor, shall state the discount in accordance with Para 14-4/Instructions to Bidders, provided the Bids for all these parts shall be delivered and opened simultaneously.

### **15- Currency of Bids**

15-1- The Bid's currency and payment shall be as stated in the bid data sheet and shall be inclusive all taxes, costumes duties and any additional expensed for the transportation, as indicated separately in each Bill of Quantity in section four.

### **16- Documents Confirming the Eligibility of Bidder**

16-1- The Bidders shall fill out the Bid's Form in chapter four to document their eligibility to participate in the tender according to Para 4/Instructions to Bidders.

### **17- Documents Confirming the Eligibility of Commodities and Services**

17-1- To prove the eligibility of commodities and service supplied according to article 5/Instructions to Bidders, the Bidders shall fill out the information related to the country of origin in the prices tables stated in section four: Contract Forms.

### **18- Documents Confirming the Conformity of Commodities and Related Services**

18-1- For the purpose of confirming the conformity of commodities and related services to the tender documents, the Bidder shall submit, as part of its Bid, documented evidence that the commodities supplied conform the technical specifications stated in section four: schedule of requirements.

18-2- Such documents may be either in print, charts or data forms, and shall include detailed description of each item, i.e. the essential technical specifications and performance properties for commodities and services, so that their compliance with the required specifications is clarified. The applicant shall submit a report of variance and exemption from the schedule of requirements.

18-3- The bidder shall also submit a list of all details, to include the available resources and current prices of spare parts and special equipments required for the continuous operation of commodities after being used by Buyer for the period specified in the bid data sheet.

18-4- The workmanship, materials and equipments and the reference to the trade names and/or reference numbers contemplated as stated by the Buyer in the schedule of requirements shall be examples and not limitations. The Bidder may offer other standards for quality and trademarks and/or contemplated reference numbers, provided that these shall realize the same or exceed the efficiency of items stated in the schedule of requirements and shall satisfy the Buyer.

### **19- Documents Confirming the Qualification of the Bidder**

19-1-The documents proving the Bidder's qualifications, in the event of awarding the bid in its favor, shall meet the following conditions:

a- The Bidders who are not the manufacturers or producers of commodities to be supplied shall submit the authorization of the manufacturer to market the commodities according to the form in chapter four, and the form of authorization by the manufacturer or the producer to market the commodities in the country of the Buyer, if stipulated in the Instructions to Bidders.

- b- If the Bidder is not doing business in Iraq, and if the same is required in the bid data sheet, it shall be represented in Iraq by a proxy that is ready and capable of conducting the maintenance operations and providing spare parts as stated in the contract conditions and/or the technical specifications.
- c- The Bidder shall meet all the qualifications and standards stipulated in section three: Evaluation and Qualification Criteria.

## **20- Period of Validity of Bids**

- 20-1- The Bid shall remain valid beyond the deadline for submission specified by the Buyer as stated in the bid data sheet. Any Bid with shorter validity shall be disregarded.
- 20-2- In some exceptional circumstances, the Buyer may request extension for the validity of Bid beyond the validity period specified. In this case, the request for extension and reply thereof shall be in writing. If Bid's security is required as per article 21/Instructions to Bidders, The Security shall be extended for the same period. The Bidder is entitled to reject the request for extension without losing the Bid's guarantee. The Bidder who consented to the Employer's request shall not be required or entitled to extend its Bid's validity except for the case described in Para 20-3/Instructions to Bidders.
- 20-3- In the contracts where it is not permitted to revise and amend the prices, and in the event of delay in issuing the awarding letter for more than 56 days as of the date of the primary bid's validity, prices shall be revised and amended as specified in the request for extension. Bids shall be outweighed depending on the bids prices regardless of the amendment of prices as indicated above.

## **21-Bid Guarantee**

- 21-1- The Bidder shall submit, as part of the Bid, "bid guarantee" if required in the bid data sheet.
- 21-2- The guarantee amount shall be equal to the amount specified in the bid data sheet in Iraqi currency or any exchangeable currency. Also,
  - a- It shall be submitted in the form of bank's letter of guarantee or certified check issued by the Government of Iraq, or any other form to be mentioned in the bid data sheet.
  - b- The guarantee shall be issued from a recognized bank in Iraq as per the publication issued by the Central Bank of Iraq on the Banks' financial adequacy, to be selected by the Bidder. If this banking institution exists outside Iraq, a corresponding financial institution recognized inside Iraq shall be adopted, to enable operating the guarantee,
  - c- It shall be identical to any of the forms in section four: Bid Forms or any other form to be adopted by the Buyer before submitting the Bid,
  - d- It shall be negotiable promptly on issuing a written request by the Buyer in the event of breaching the conditions stated in Para 21-5/Instructions to Bidders,
  - e- The original shall be submitted; duplicates are not accepted,

f- It shall be valid for 28 days after the Bid's validity or after the date of bid extension expiry period, if required according to Para 20-2/Instructions to Bidders.

21-3- If the bid guarantee is required pursuant to Para 21-1/Instructions to Bidders, then any Bid that does not include bid guarantee shall not be accepted and be considered noncompliant.

21-4- Bid guarantee shall be returned to the non-winning Bidder promptly after the winning Bidder submits a performance guarantee as per article 44/Instructions to Bidders and signing the Contract.

**21-5- The bid guarantee shall be confiscated if the winning Bidder's fails in:**

**(1) Sign the Contract as per Para 43 of the "Instructions to Bidders".**

**(2) Submit the performance guarantee as per Para 44 of the "Instructions to Bidders".**

21-6- The Bid's guarantee for the JV shall be in the name of the Bidder's JV and if the JV is still not incorporated legally by the time of submitting the Bid, the Bid's security shall be in the name of all independent partners stated.

**21-7- the buyer has the right, (If stipulated in the bid data sheet), to declare the Contractor ineligible to be awarded any contract for the period of time stipulated in the bid data sheet in any of the following events:**

**a- If the winning Bidder fails to sign the Contract as per Para 43/Instructions to Bidders**

**b- or to submit the performance bond as per article 44/Instructions to Bidders.**

## **22- Method of Submitting and Signing of Bid**

22-1- The Bidder shall submit one original copy of its Bid marked as "Original" from the Bidding Documents as stated in 11/Instructions to Bidders. Also, the Bidder shall submit a number of copies marked as "Copy" as stated in the bid data sheet. In the event of discrepancy between the copy and the original, the Original shall be relied on.

22-2- All originals and copies of the Bid shall be written in ink and signed by a Bidder's representative. Conversion shall be authenticated by the Notary Public.

22-3- Any traces of deletion or writing between the lines shall not be considered valid unless accompanied with the signature of the person authorized to sign the Bid.

## **D- Submission and Opening of Bids**

### **23- Delivering, Sealing and Marking of Bid**

23-1- Bidder shall deliver its Bid in hand or send it through registered mail.

- a- When Bids are delivered in hand or through email (if the same is indicated in the bid data sheet), the originals and copies of the Bid and the alternative Bids (if permitted as per article 13/Instructions to Bidders) shall be delivered in separated envelopes, provided that such envelopes shall be marked whether they contain originals or copies. Such envelopes shall be, then, put in one envelope. Thereafter, procedures shall be followed as per 22-2 and 22-3/Instructions to Bidders.
- b- Bidders may submit their Bids electronically if the same is indicated in the bid data sheet as per the instructions stated in the bid data sheet.

23-2- The outer and inner envelopes shall state:

- a- The Bidder's name and address.
- b- The Buyer's address according to 24-1/Instructions to Bidders.
- c- The definition of Bid as referred to in sub-Para 1-1/Instructions to Bidders, and any other identification references stated in the bid data sheet.
- d- Notice of "Not to open before the Bids opening date" as per sub-Para 27-1/Instructions to Bidders.

23-3- The Buyer shall not be held responsible for any lost or opened Bid that is not closed, sealed and marked as required.

### **24-Deadline for Submitting of the Bids**

24-1- The Buyer shall receive the Bid at the specified address on the date and time specified in the bid data sheet.

24-2- The Buyer has the right to extend to the Bidding deadline by amendment of documents as per article 8/Instructions to Bidders; in this event the rights and obligations of the Buyer and the Bidder shall be extended according to the new date.

### **25-Late Bids**

25-1- The Employer shall not accept any Bid delivered after the Deadline as per Para 24/Instructions to Bidders. Accordingly, any Bid received after the specified period shall be considered "Late", rejected and returned unopened to the Bidder.

## **26- Withdrawing, Replacing and Amending of Bids**

- 26-1- The Bidder may withdraw, replace or amend its Bid after its submission by sending a **written notice** as per article 10/Instructions to Bidders, provided that the **notice** shall be signed by the authorized person and accompanied with a copy of the as per Para 22-2/Instructions to Bidders. And the notices on the substitution or withdrawal shall be attached to the **official authorization**. All **written** notices shall:
- a- Be submitted as per Para 22 and 23/Instructions to Bidders. The envelopes shall be marked as Withdrawing, Replacing or Amending.
  - b- Be received by the Buyer before the tender deadline as per Para 24/Instructions to Bidders.
- 26-2- Bid to be withdrawn as Para 26-1/Instructions to Bidders shall be returned to the Bidder unopened.
- 26-3- The Bidder may not withdraw, substitute or amend the Bid with the period between the tender deadline and the expiry of Bid's validity as specified in the bid data sheet or any extension thereto.

## **27- Opening of Bids**

- 27-1- The (Bids Opening Committee) shall open the Bids **at the presence of the bidders or their authorized representatives** in public session at the time and place specified in the bid data sheet. According to Para 23-1, the procedures regarding opening the electronically submitted bids shall be referred to in the bid data sheet.
- 27-2- The envelopes marked as Withdrawal shall be first opened and read to the public; the envelope containing the withdrawn Bid shall be returned to the Bidder unopened. The withdrawal letter shall not be considered valid unless there's an official authorization therefore; such authorization shall also be read publicly during the bids opening session. Thereafter, the envelopes marked as Substitution shall be opened and read publicly and shall be substituted with the original Bid which shall be returned to the Bidder unopened. No Bid shall be amended unless there's a letter of substitution stating an official authorization that is read publicly in the opening session. The envelopes marked as Amendment shall be opened and read publicly; no amendment shall be adopted unless there's a written letter thereof stating an official authorization. Only the bids opened and read during the bids opening session shall enter into competition and evaluation.
- 27-3- The envelopes shall be opened one by one; the name of Bidder shall be read, whether there's amendment notice shall be stated, the prices offered and discounts and alternative bids shall be read. Also, shall be mentioned the Bid's security, if required, and any other details which the Bids Opening Committee deems necessary to mention. Only discounts and alternative bids read publicly in the session shall enter the competition and evaluation. No Bid mentioned in the bids opening session, other than the Late Bid as per Para 25-1/Instructions to Bidders, shall be rejected.
- 27-4- The Bids Opening Committee shall set up a minutes of the bids opening session which shall at minimum contain the name of Bidder, whether the Bid has been withdrawn, substituted or amended, Bid Price as per each part if required, to include any discounts and alternative proposals if applicable, whether the Bid security is included if applicable. The Buyer shall require the Bidders present to sign the minutes of bids opening session. All bidders who submitted bids before the deadline shall receive a copy of the bids opening session's minutes. Also, the information in the minutes shall be published on the website.

## **E- Evaluating and Comparing Bids**

### **28- Confidentiality**

- 28-1- The information on the examining, evaluation, comparison and post-qualification of Bids and the recommendations on awarding the bid shall not be disclosed to the Bidders or any other person until the result thereof is announced officially in the bid's awarding announcement.
- 28-2- Any attempt by the Bidder to influence **the contracting party (committee of evaluating and analyzing the bids)** in the process of Bid's examining, evaluation, comparison and awarding the Bid may result in rejecting its Bid.
- 28-3- Notwithstanding Para 28-2/Instructions to Bidders, if any Bidder is interested in approaching the Buyer on any subject related to the Bid during the period between Bid Opening and awarding, it may conduct the same in writing.

### **29- Clarification of Bids**

- 29-1- To facilitate the process of examining, evaluation and comparison of Bids, **the contracting party (committee of evaluating and analyzing the bids)** may ask the Bidder to clarify its Bid. Any clarification from the Bidder not in response to a question shall not be considered. The request for clarification and the answer thereto shall be made in writing. No demand, offer or permit of change in the price is allowed, unless this is intended for correcting computing errors discovered by the Buyer during the Bid's evaluation as per Para 31/Instructions to Bidders.

### **30- Bids Response**

- 30-1- The Buyer's determination is adopted whether the Bid is in accordance with the contents of the Bid itself.
- 30-2- The compliant Bid is the Bid meeting all the terms, conditions and specifications stated in the tender documents without significant deviation, restriction or deletion. The significant deviation, restriction or deletion is:
- a- Affects, in any way, the quality or performance of the commodities and services specified in the Contract.
  - b- Limits, in any way, in discordance with the tender documents, the Buyer's rights or the Bidder's obligations.
  - c- Affects, in the event of Buyer's acceptance of such significant reservation or deviation, the competition with other Bidders.
- 30-3- The Buyer shall disregard the Bid if it is noncompliant to the Bid Conditions. The Bidder is not allowed to comply with the conditions through making deviation, deletion or restriction on the information submitted after the public bids opening session.

### **31- Non-Conformity of Specifications, Errors and Omitting**

- 31-1- If the Bid is compliant to the required essential conditions, then the **contracting party (committee of evaluating and analyzing the bids)** may require the Bidder to submit any necessary information or documents well in advance to redress any deficiency not connected to the essential materials and related to the documentation. Such deficiency or deletion shall have no effect on the prices stated in the Bid in any way. Failure by the Bidder to submit the required information shall result in rejecting its Bid.

- 31-2- If the Bid is compliant to all conditions, then the Buyer shall have the right to correct any computing errors as per the following conditions:
- a- If there's great contradiction between the unit price and the line item amount obtained from multiplying the unit price by the quantity, the unit price shall be adopted and the line item amount shall be corrected accordingly, unless, in the Bids Analysis Committee's opinion, there is a mistake in the decimal point of the units price then the amount shall be adopted and the unit price shall be corrected.
  - b- If there's error in the grand total of the line item amounts, the subtotals shall be adopted and the grand total shall be corrected.
  - c- If there's discrepancy between the in-writing and in-figure amount of any line item, the in-writing amount shall be adopted, unless there's a computing error in determining the amount; whereupon the in-figure amount shall be adopted according to the secondary Paragraphs (a) and (b) above.
- 31-4- If the winning Bidder does not consent to the corrections conducted by **the contracting party (committee of evaluating and analyzing the bids)**, the offer shall be disqualified and the Bid security related thereto shall be confiscated.

### **32-Initial Auditing of Bids**

- 32-1- **The contracting party (committee of evaluating and analyzing the bids)** shall examine the Bids to verify that all the documents required in Para 11/Instructions to Bidders are included and to verify that the information exist in the documents submitted are complete.
- 32-2- **The contracting party (committee of evaluating and analyzing the bids)** shall confirm its receipt of the following information and documents:
- a- Form of contract, as per Para 12-1/Instructions to Bidders.
  - b- Price Table as per Para 12-2/Instructions to Bidders.
  - c- Bid's security as per Para 21/Instructions to Bidders, if required.
- If any of these information or documents is not available, the Bid shall be disregarded.

### **33- Auditing the Terms and Conditions and the Technical Evaluation**

- 33-1- **The contracting party (committee of evaluating and analyzing the bids)** shall check the Bid to verify that the terms and conditions specified in the General and Special Conditions of the Contract are fulfilled by the applicant without any significant restrictions or deviations.
- 33-2- **The contracting party (committee of evaluating and analyzing the bids)** shall evaluate the technical aspects of the submitted Bid as per article 18/Instructions to Bidders to verify that all the requirements stipulated in part six: schedule of requirements are available without any material restrictions or deviations.
- 33-3- If **the contracting party (committee of evaluating and analyzing the bids)**, after checking the terms and conditions and the technical evaluation, decides that the Bid does not fulfill the conditions required in 30/Instructions to Bidders, the Bid shall be disregarded.

### **34-Conversion to Unified Currency**

34-1- For the comparison and analysis purposes, the contracting party (committee of evaluating and analyzing the bids) shall convert the currencies of the prices of various Bids to the currency stated in the bid data sheet adopting the exchange rate issued by the Central Bank of Iraq on the date specified in the bid data sheet for that currency.

### **35-Margin of Preference**

35-1- the Margin of Preference shall not adopted for the local bidders, unless stipulated in the bid data sheet, then, the specified vackle of the margin shall be indicated in the bid data sheet.

### **36-Evaluation of Bids**

36-1- The contracting party (committee of evaluating and analyzing the bids) shall evaluate all the Bids that went through to this phase to verify that their contents fulfill the required conditions.

36-2- The contracting party (committee of evaluating and analyzing the bids) shall, in evaluation of Bids, employ all factors, methods and standards specified in Para 36/Instructions to Bidders. No other methods or standards may be employed.

36-3- In evaluating the Bid, the contracting party (committee of evaluating and analyzing the bids) shall consider the following:

- a- Price of Bid submitted as per Article 14,
- b- Amendment of the prices for the purpose of correcting the computing errors as per 31-3/Instructions to Bidders.
- c- Amendment of prices resulting from the discounts offered as per Para 14-4/Instructions to Bidders.
- d- Amendments resulting from the application of evaluation criteria specified in part three: Evaluation and Prequalification Criteria in the bid data sheet.

36-4- The evaluation by the contracting party (committee of evaluating and analyzing the bids) shall include, in addition to the prices, other factors as per article 14/Instructions to Bidders. These factors may be related to the specifications, performance and conditions of acquisition of commodities and services. The effect of such factors, if any, shall be described in the financial conditions to facilitate comparison between the Bids, unless stated otherwise in S3: Evaluation and Prequalification Criteria and then the method, criteria and bases of outweighing shall be those referred to in 36-3-d.

36-5- If the bid data sheet permit parting and allow the Bidder to submit its prices for a table (part) or more from the tables (parts) constituting the general national tender, then the Buyer may contract with more than one supplier and the bids evaluation and comparison criteria stated in chapter three shall be adopted.

### **37- Bids Comparison**

The contracting party (committee of evaluating and analyzing the bids) shall compare the contents of all the compliant Bids in order to determine the lowest price Bid (that is financially and technically compliant) as per Para 36/Instructions to Bidders.

### **38-Subsequent Qualifications to Bidders**

38-1- the contracting party (committee of evaluating and analyzing the bids) , after selecting the lowest-cost Bid (that is financially, technically and administratively compliant), shall decide whether the Bidder is qualified to execute the contract satisfactorily.

38-2- Such decision shall be passed after checking and reviewing all the documents proving the Bidder's qualifications as per Para 17/Instructions to Bidders.

38-3- In light of 38-1 and 38-2, post qualification of the winning Bidders is considered a basic condition for awarding the bid; if it is not compliant to the qualification conditions referred to above, it shall be disregarded and the next lowest-cost Bid shall be considered.

### **39-Buyer's Right to Accept or Reject any Bid**

39-1- The Buyer has the right to accept or reject any bid. Also it has the right to cancel the tender and reject all bids submitted any time before awarding the bid without being held liable towards the Bidders.

## **F- Awarding the Bid**

### **40- Awarding Criteria**

40-1- The bid shall be awarded to the lowest-cost Bid that is compliant to all the conditions stated in the Bid, after verifying its qualification and abilities to execute the contract in the best possible way.

### **41-Buyer's Right to Change the Quantities upon Awarding the Tender**

41-1- The Buyer, upon awarding the bid, shall reserve the right to change (increase or decrease) the quantities specified in chapter six: schedule of requirements, provided that the change shall not exceed the rates specified in the bid data sheet and without any change to the unit prices or any other conditions stipulated in the tender documents.

### **42- Notification of Awarding the Bid**

42-1- The Buyer shall, before the expiry of Bid's validity, shall notify the winning Bidder with accepting its Bid in writing.

42-2- Soon after issuing the acceptance letter to the winning Bidder, the Buyer shall notify the non-winning Bidders therewith stating the reasons of their failure and releasing their Bid guarantee submitted, except for what is stipulated in 42-5 hereafter.

42-3- Also, soon after issuing the acceptance letter, the Buyer shall publish the results of Bids analysis on its website, to include the following:

- a- Names of Bidders who participated in bidding.
- b- Prices of Bids as read upon opening the Bids.
- c- Names of Bidders and their Bids prices after analysis.
- d- Name of disregarded bidders and reasons for disregarding.
- e- The name of winning Bidder, its Bid price and the period of execution, plus a summary description of works covered by the contract.

42-4- Bid's acceptance letter shall be considered a binding contract until a formal contract is signed.

42-5- Until the winning Bidder submits a performance guarantee as per Article 44 and signs the contract, the Buyer holds the Bids guarantees of the second and third nominated Bidders.

### **43- Signing the Contract**

43-1- Soon after the Bid acceptance letter is sent, the Buyer shall send to the winning Bidder with the Form of Contract and the Special Conditions of the Contract.

43-2- the winning bidder, in a period not exceeding (14) days or twenty nine (29) days including the warning period from the date of receiving the letter of acceptance after the end of appeal period, has to sign the contract text and fix its date and return it to the buyer, unless it is stipulated otherwise in bid data sheet; otherwise the supplier shall bear the legal consequences stipulated in the prevailing instructions of executing the government contracts.

43-3- In addition to the stipulations of 43-2/Instructions to Bidders above, if the contract is not signed due to obstacles by the Buyer or the Buyer's country, the Bidder shall not be bound by its Bid. Also if such **obstacles** are stated in instructions from the country of provision of commodities, systems or services, the Bidder shall not be bound by its bid. The Bidder, upon applying for exemption from its obligations, shall prove to and convince the Buyer that its failure to sign the contract is not attributable to omission or violation from its part in performing any formal matters required under the General Conditions of the Contract and the it has applied for the permits and authorizations required for exporting the commodities, systems or services.

### **44- Good Performance Guarantee**

44-1- The Bidder, if required under the General Conditions of the Contract, shall, within **29** days as of the date of awarding the bid, **including the warning period**, provide a **good** performance guarantee, unless the bid data sheet states otherwise. It shall use the form of **good** performance guarantee in chapter nine: contract forms or any other form accepted by the Buyer. The Buyer shall notify all Bidders with the name of winning Bidder and release their guarantees as per 21-4/Instructions to Bidders.

44-2- Failure by the winning Bidder to submit the **good** performance guarantee or to sign the Contract shall be good reason for revoking the award and confiscating the Bid's guarantee. In such case, the Buyer shall have the right to award the Contract to the runner-up Bidder whose Bid is compliant to all the required conditions and is capable of executing the terms of Contract in the best possible way. The Buyer may take the necessary actions to charge the party in default with the price difference.

## Section Two: Bid Data Sheet

Clause Instructions to Bidders	in	A- General
1-1		Buyer's Name: <b>southern refinery company (SRC)</b>
1-1		Tender's Name and Number: <b>388/2017-E</b> <b>For supplying Complete heavy duty gear box units for cooling tower</b>
2		<b>Financing Resource</b> : the Federal ( <b>Operational</b> )Budget of the Government of Iraq
2-1		Project's name and number in the Federal (Operational)Budget: <b>Complete heavy duty gear box units for cooling tower</b> <b>388/2017 -E</b>
4-3		There is a list of the companies that are unqualified or banned from working with the Ministry of Planning and Developmental Cooperation/Government Public Contracts Department <a href="http://www.mop.gov.iq">http://www.mop.gov.iq</a>
5-1		<b>Eligible countries :</b> <b>countries : Belgium / U.S.A / Germany / Italy / France / U.K / Netherlands / Switzerland / Austria / Spain /Finland /Sweden /Japan</b>
5-3		The term "origin" means the country from which the commodities are <b>manufactured</b>
		B- Contents of Bid Documents
7-1		For the purpose of clarification of Bid's objectives only ,the Buyer's addresses: <b>To: CONTRACTS&amp;PURCHASE DEPARTMENT -SOUTH REFINERIESCOMPANY- BASRA- REPUBLIC OF IRAQ</b> Postal Code : <b>N/A</b> Email: <b>CONTRACTS@SRC.GOV.IQ</b>
7-1		Questions on the Bid Documents shall be submitted to the Buyer's contracting departments no later than( <b>7 days before closing date</b> )
		C- Bid's Preparation
10-1		Bid's Language: <b>Arabic, English</b>

11-1(h)	<p>The Bidder shall submit the following additional documents</p> <p>The Bidder shall submit the following additional documents :</p> <ul style="list-style-type: none"> <li>- <b>STATEMENT OF APPROVAL TO PARTICIPATE IN TENDERS FROM TAX AUTHORITIES( for local suppliers).</b></li> <li>- <b>CERTIFICATE OF INCORPORATION LEGALIZED BY THE IRAQI EMBASSY FOR INTERNATIONAL COMPANIES.</b></li> <li>- <b>CHAMBER OF COMMERCE MEMBERSHIP CARD AND THE IDENTIFICATION DOCUMENTS OF THE MANAGER(for local supplier only).</b></li> <li>- <b>Receipt of buying tender documents</b></li> <li>- catalogs and technical specification</li> <li>- Predicted data sheet for gear box , impeller fan , electrical motor &amp; drive shaft</li> <li>- Predicted dimensional outline drawing (GA drawing )</li> <li>- Cross sectional drawings for gear box</li> <li>- dimensional outline drawing for impeller fan</li> <li>- dimensional outline drawing for drive shaft</li> </ul>
13-1	Alternative Bids <b>shall not be</b> considered.
14-5	<b>The Incoterms edition is : 2010</b>
14-6	The Bid prices offered by the Bidder upon executing the contract are <b>non-adjustable</b>
14-7	<p>The priced items in each special list(part)in the national competitive bid shall not be less than <b>100%</b>of the total items constituting such list.</p> <p>The prices shall be valid at <b>100%</b>of the quantities stated next to each item of such lists.</p>
15-1	Prices shall be in the following currency <b>US Dollar, Euro, Iraqi dinar</b>
18-3	The expected life time of commodities : <b>Not Applicable</b>
19-1-a	Authorization of the Manufacturer to the <b>supplier</b> Bidder: <b>Not Applicable</b>
19-1-b	After sale services <b>Not Applicable</b>
20-1	Bid's validity <b>120 days From the closing date</b>
20-3	<p><b>The contracts, in which it is not permitted to adjust prices, and in case of delay in issuing the award decision for a period exceeding ( 14 ) days after the date initial bid expiry date, non applicable</b></p> <p><b>the prices are to be reviewed and adjusted , non applicable</b></p>
21-1	Bid's guarantee is required

21-2	The Bid guarantee price is : <b>(5200) five hundred two thousand USD.</b>
21-2-a&b&f	The Bid guarantee shall be submitted in the form of (bank's letter of guarantee or certified check or a Bank Transfer), directed to our company (SRC), and shall have: <b>Name and Number of Tender</b> . The guarantee shall be issued from a recognized bank in The Central Bank of Iraq. Its shall be valid for( <b>28days</b> )after the Bid's validity.
21-7	In the event the Bidder conducts anything stated in(a)or(b)of this clause, the Buyer shall have the right to declare the Bidder disqualified and suspend its participation in tenders for a period of <b>three years</b>
22-1	In addition to the original contract ,the number of copies is( <b>Two hard copies and one soft copy</b> ).
<b>D-Submission and Opening of Bids</b>	
23-1-a	The Bidders are <b>May Not</b> send their Bids via email.
23-1-b	<b>Not Applicable</b>
23-2-c	The inner and outer envelopes shall have the special additional marks <b>TO /south refineries co. , FROM/ name of supplier ,Tender number and name ,Company stamp, authorized signature and closing date.</b>
24-1	For the purpose of Bid's submission ,the Buyer's address is: To: <b>CONTRACTS &amp; PURCHASE DEPARTMENT -SOUTH REFINERIES COMPANY</b> Address: <b>AL SHUAIBA/ BASRA- REPUBLIC OF IRAQ</b> Floor and room number: <b>ROOM OF RECEIVING &amp; OPENING Bids COMMITTEE</b> City: <b>Basra</b> <b>Tender Deadline: 12 July 2017</b> <b>Time:12:00 AM BASRA LOCAL TIME</b>
27-1	Bids shall be opened in the following time and place: Address : <b>AL SHUAIBA/ BASRA- REPUBLIC OF IRAQ</b> Floor and room number: <b>ROOM OF RECEIVING &amp; OPENING BIDS COMMITTEE</b> City: <b>Basra</b> Date: 12 July 2017 Time: <b>01:00 PM BASRA LOCAL TIME OR The Day after.</b>
27-1	<b>Not Applicable</b>
<b>E-Evaluating and Comparing Bids</b>	

34-1	Prices submitted in other currencies shall be converted to their equivalent in <b>US Dollar</b> Source of currency exchange: <b>Bulletin of The Central Bank</b> Date of exchange rate: <b>The Opening Date of Tender</b> .
35-1	Insert ( it is to be adopted, not adopted)/ <b>Margin of Preference</b> as a factor in analyzing bids. If the limits of methodology are adopted : <b>In accordance with Instructions for Implementing Government Contracts No. (2),2014</b>
36-3-a	Evaluation and comparison shall be conducted on the bases of (items and parts) <b>The Bids shall be evaluated and compared on the basis of line item totals. If the priced table of a Bidder contained a non-priced item, then its price shall be considered as covered by the prices of other items. Also, if an item is not listed in the schedule of prices in a compliant Bid, its average price in compliant prices shall be taken and added to the price of such Bid to determine its total cost for the purpose of price comparison between the Bids.</b>
36-3-d	Evaluation shall be conducted using the criteria of section three: Evaluating and Comparing Bids: a- Deviation in supply times <b>no</b> b- Deviation in payment times <b>no</b> c- Cost of replaceable parts and spare parts for the purposes of maintenance and after sale service for the equipment stated in Bid <b>no</b> d- Availability of after sale service and spare parts in the country of buyer for the equipments offered in the Bid <b>no</b> e- Cost estimate for the purposes of operation and maintenance through operation lifetime of equipments <b>no</b> f- Performance and productivity of equipments provided <b>no</b>
36-5	<b>Not Applicable</b>

F- Awarding of Tender	
41-1	Upper limit of percentage permitted to increase the quantities in the same prices (20%) Upper limit of percentage permitted to decrease the quantities in the same prices (15%)
43-2	Contract shall be signed within 14 working days as of the date of issuing the letter of acceptance
44-1	A good performance bond shall be submitted within 14 working days as of the date of issuing the letter of acceptance and before the Contract is signed

## **Section Three: Evaluation and Qualification Criteria For the Contracts of Supplying Commodities**

This Section supplements the Instructions to Bidders, contains the criteria employed by the Buyer/Bids Analysis Committee for the evaluation of the Bid and determines whether the required qualifications are fulfilled by the Bidder and other criteria are employed.

The Buyer may select the criteria it deems suitable for the execution of the supply process and it may enter the method it deems suitable by using the samples listed below or using another acceptable method.

### **Contents**

- 1- Evaluation criteria (36-3-d/Instructions to Bidders)
- 2- Multiple contracts (36-5/Instructions to Bidders)
- 3- Requirements for Subsequent Qualification (38-2/Instructions to Bidders)

## **1- Evaluation Criteria(36-3-d/Instructions to Bidders)**

In evaluating a Bid, shall be considered, in addition to the Bid's price as per Para 14-6/Instructions to Bidders, one or more of the following factors stipulated in Para 36-3-d/Instructions to Bidders and 36-3-d/bid data sheet, employing the following methodological criteria:

### **a- Delivery Schedule(asper the INCOTERMSreferred to in the bid data sheet) N/A**

The Commodities exist in the Schedule of Commodities shall be delivered within reasonable period of time (i.e. after the primary date and before the deadline of delivery) as specified in section six: Delivery Schedule. No priority shall be given to the commodities delivered before the early time, and the Bids to deliver commodities after the deadline shall be considered noncompliant. For the purposes of evaluation only, the prices of Bids that deliver commodities after the early delivery time as specified in S6: Delivery Schedule, if the bid data sheet stipulates the same, as stated in Para 36-6-d/bid data sheet.

### **b- Amendment of Payment Schedule N/A**

Prices shall be submitted by Bidders as per the payment schedule referred to in the Special Conditions of the Contract and the Bids shall be evaluated according to the rules specified in that schedule. Bidders are allowed to submit an alternative payment schedule and propose discount to the prices quoted in their original Bid in the event their proposed alternative Bid is accepted. The Buyer shall have the right to take into account the proposed alternative payment schedule as well as the proposed discount percentage.

### **c- Cost of the Essential Replaceable Parts and Compulsory Spare Parts and After Sale Services(insert one of the following alternatives) N/A**

**1- The cost of compulsory spare parts, replaceable parts and after sale services according to the lists submitted by the supplier that are set up according to the instructions of manufacturer of commodities for maintenance purposes throughout the operation lifetime of the commodities referred to in Para 18-3/bid data sheet shall be added to the Bid price for the purpose of comparison and outweighing between the offers or 18-3.**

**2- The Buyer shall set up a list of the requirements of the highly consumable and high cost parts and the compulsory spare parts and estimated quantities during the primary operation period specified in 18-3/bid data sheet. The Bidder shall price these and add them to the contract price for comparison purpose only.**

### **d- Provision of After Sale Services for Commodities and Spare Parts in the Buyer's Country N/A**

If Para 36-3-d/Bid Data Sheet stipulates that the Bidder shall offer the cost of providing after sale services, such as maintenance and provision of spare parts in the Buyer's country, the cost of such services shall be added to the contract price for comparison purpose.

### **e- Planned Cost of Operation and Maintenance N/A**

Shall be added an amendment margin to the cost of operation and maintenance of commodities to be added to the contract price for comparison purpose only if the same is stipulated under Para 36-3-d & e. Such cost margin shall be specified according to the method referred to in the 36-3-d & e/Bid Data Sheet.

### **f- Performance and Productivity of Equipment N/A**

A margin of amendment of cost calculated on the basis of the performance and efficiency of commodities proposed by the Bidder in comparison with the efficiency and performance of the commodities referred to in the Bidding Documents, if the same is stipulated in Para 36-3-d & f/Bid Data Sheet according to the method specified in the same clause shall be added to the contract price for comparison purpose only.

### **g- Any Further Criteria N/A**

If it is required to add further criteria for outweighing and comparison, these shall be referred to in 36-3-d & g/Bid Data Sheet.

## **2- Multiple Contracts (36-5/ Instructions to Bidders) N/A**

The Buyer may award more than one Bid over the Bid submitted that offers the lowest value for a set of Bids (so that there's one Bid for each contract) which fulfills all the criteria required in the subsequent qualification phase (as referred to in Para 38-2/Instructions to Bidders of section three: "Requirements of Subsequent Qualification").

The Buyer shall:

- a- Evaluate the Bid that fulfills the minimum limit of percentages specified in the Instructions to Bidders, only with respect to the items indicated in the special lists and the quantities indicated next to these items, as specified in Para 14-8/Instructions to Bidders
- b- Shall be taken into account:
  - (1) Lowest cost Bids as to each special list
  - (2) Discount of price for each special list and the method of application thereof as offered by the Bidder in its Bids.

## **3- Requirements of Subsequent Qualification(38-2/Instructions to Bidders)**

After determining the lowest evaluated Bid as per sub-Para 37-1/Instructions to Bidders, the Buyer shall conduct the subsequent qualification procedures to the Bidder as per Para 38/Instructions to Bidders employing the specified requirements only. While the requirements not covered by the text below shall not be used in the evaluation of the qualifications of Bidders.

a- Financial capability,

The Bidder shall submit documented evidence on its ability to meet the following financial requirements:  
**1- Final Accounts Profit rate for the past three consecutive years Authorized and audited by a Recognized Certified Accountant.**  
**2-Cash liquidity equivalent to (520,000)\$Five hundred twenty thousand US dollars**

b- Experience and technical capability,

The Bidder shall submit documented evidence on its ability to meet the requirements of technical experience listed below

**Provide evidence to prove outfitted with equipment (pumps, compressor, etc.) to oil companies or public sector companies in Iraq**

c- The Bidder shall submit documented evidence that the commodities it offers meet the following requirements applications:

**Submit a letter from the manufacturer proves that the appropriate required equipment required to use.**

**Section Four: Bid Forms**  
**For the Contracts of Supplying Commodities**

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## **Bidder's Information Form**

[The bidder shall fill out this form according to the information listed below. No amendment to this form shall be allowed, and no alternative shall be accepted]

Date: [Insert the Bid's submission date (day/month/year)]

National competitive Bid's number: [Insert Bid's No.]

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1- Bidder's Legal Name: [Insert Bidder's Name]

2- In the event of Joint Venture Bidder, the legal name of each partner: [Insert the legal name of each partner in the JV]

3- The country in which the Bidder is actually registered or it intends to be registered therein: [Insert country]

4- Bidder's registration year: [Insert registration year]

5- Bidder's official address in its country of registration: [Insert address]

6- Information of Bidder's authorized representative:

Name: [Insert authorized representative's name]

Address: [Insert authorized representative's address]

Tel./Fax: [Insert authorized representative's tel. and fax]

Email: [Insert authorized representative's email]

7- Attached photocopies of original documents: [Check if the original documents are attached]

- The articles of incorporation of the company stated in 1 above, as per sub-Para 4-1 and 4-2/Instructions to Bidders.

- In the event of a JV bidder, shall be attached a letter of incorporation of the joint venture or a joint agreement as per sub-Para 4-1/Instructions to Bidders.

- In the event of a State owned organization, shall be submitted the documents proving the organization's legal and financial independence according to law, as per sub-Para 4-5/Instructions to Bidders.

## JV's Partners Information Form

[The Bidder shall fill out this form according to the instructions stated below] Date:

[Insert the Bid's submission date (day/month/year)]

Local competitive Bid's number: [Insert Bid's No.]

Page \_\_\_\_\_ of \_\_\_\_\_

1- Bidder's Legal Name: [Insert Bidder's Name]

2- Legal Name of the Joint Venture: [Insert the legal name of each partner in the JV]

3- The country in which the Bidder is actually registered or it intends to be registered therein:  
[Insert country]

4- Bidder's registration year: [Insert registration year]

5- Bidder's official address in its country of registration: [Insert address]

6- Information of Bidder's authorized representative of the joint venture:

Name: [Insert authorized representative's name of the joint venture]

Address: [Insert authorized representative's address of the joint venture]

Tel./Fax: [Insert authorized representative's tel. and fax of the joint venture]

Email: [Insert authorized representative's email of the joint venture]

## Bid Submission Form

[The Bidder shall fill out this form according to the instructions stated below. No amendment to this form shall be allowed, and no alternative shall be accepted]

Date: [Insert Bid's submission date (date/month/year)]

National competitive Bid's number: [Insert Bid's No.] Bid

Invitation No.: [Insert Invitation's No.]

Alternative No.: [Insert Reference No. if it is alternative Bid]

To: [Insert Buyer's full name]

We, the signatories below, acknowledge that:

- a- We have studied the Bid documents and we have no reservations thereon, including the annexes: [Insert number and date of issuance of each annex],
- b- We offer provision of the following commodities and related services in accordance with the Bid Documents and the delivery schedule specified in the Schedule of Requirements [Insert summary description of the commodities and related services],
- c- The total price of our Bid, to except for the discounts offered in (d) below: [Insert total price in writing and in figures],
- d- Discounts offered and method of application are:  
Discounts: If our Bid is accepted, we shall apply the following discounts. [Specify in details each discount offered and on which of the items in the Schedule of Requirements it shall be applied],  
Method of discounts applications: Discounts are applied employing the following method: [Specify in details the method to be employed in discounts application],
- e- Our Bid shall be valid throughout the period of time specified in sub-Para 20-1/Instructions to Bidders from the Bid deadline as specified in sub-Para 24-1/Instructions to Bidders; it remains binding to us and is accepted any time prior to the expiry of validity period,
- d- We pledge, in the event our Bid is accepted, to submit a **good** performance guarantee as per article 44/Instructions to Bidders and 18/General Conditions of the Contract, as well as signing the Contract as per article 43 and according to the timings stipulated in the Bid Data Sheet. Otherwise, we shall undertake all legal actions taken against us, to include confiscation of the Bid guarantee by us and charging us with the price difference resulting from awarding the tender to another bidder.
- g- We, including the subcontractors or suppliers of any part of the Contract, holding the citizenship of eligible countries (insert the Bidder's citizenship as well as the citizenship of all parties involved in the offer, in the event of JV Bidder) and the citizenship of each subcontractor supplier.
- h- We have no conflict of interests as per sub-Para 4-2/Instructions to Bidders,
  - i- Our company or any of its subsidiaries or affiliates, to include subcontractors or suppliers for any part of this Contract, had never been deemed eligible according to the Law of Iraq and the official provisions **and our activities have not been suspended or being included in the black list by the Ministry of Planning** as per Para 4-3/Instructions to Bidders;

j- Fees, commissions and gratuities, as follow, which are or to be disbursed for completing the Bid or executing the Contract: [Insert full name and full address of each recipient, reason for disbursement, amount and currency]

Recipient's Name	Address	Reason	Amount
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(if no payment is or to be disbursed, insert "None")

k- We realize that the Bid and the letter of award attached to your written consent constitute a binding contract between us until setting up and signing the formal contract,

l- We realize that you are not obliged to accept the lowest price bid or any other bid you receive.

Signature: [Insert signature and title of the mentioned person]

In its capacity: [Insert official capacity of the delivery form signatory]

Name: [Insert full name of the person to sign the Bid's submission form]

Duly authorized to sign the Bid on behalf of: [Insert full name of Bidder]

Signed on \_\_\_\_\_ Day \_\_\_\_\_ Month \_\_\_\_\_ Year \_\_\_\_\_

[Insert signing date]

## **Schedule Form of Prices**

[The bidder has to fill the schedule form of prices according to the instructions written hereunder, and the items list in the first column of the schedule of prices must conform to the list of commodities and related services and specified by the buyer in the schedule of requirements].

### Bill of Quantities

				Date: Competitive Bid No.: Alternate No.: Page No.:      From:		
1	2	3	4	5	6	7
<b>Item No.</b>	<b>Commodities Description</b>	<b>Date of Delivery</b>	<b>Quantities and Units</b>	<b>Unit Price DDP delivered to warehouses</b>	<b>Total Price of each Item</b>	<b>Country of Origin</b>
[Insert no. of each item]	[Insert names of commodities]	[Insert date of delivery]	[Insert units numbers that must be provided and names of units]	[Insert unit price]	[Insert total price of each item]	
<b>Total Price: Commodities</b>						

To specify the method of commercial selling in the condition of declaration whether CIP, FOB, C&F, CIF ... etc according to INCOTERM.



## **Bid Guarantee Form (Bank Guarantee)**

[The bank fills this bank guarantee form according to the instructions aforementioned between the brackets.]

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[Insert the Name of the Bank, Address of the Branch or the Issuing Bureau]

**Beneficiary:** [Insert the name and address of the Buyer]

**Date:** [Insert Date]

**Bid Guarantee No.:** [Insert Number]

We were informed that [Insert name of bidder] (hereinafter called "Bidder") has given you his bid dated [Insert Date] (hereinafter called "Bid") to implement [Insert Name of Contract].

Moreover, we are aware, according to your conditions that bids must be supported by a bid guarantee.

According to the request by the bidder, we [Insert Name of Bank] are committed according to this document to pay you any amount or amounts that does not exceed in total the amount of [Insert amount in numbers] ([Insert amount in writing]) Iraqi Dinar once we receive from you the first written request accompanied by a written affidavit stating that the bidder has violated his obligation (obligations) under the conditions of the bid, because the bidder:

- (A) Has withdrew his bid during the validity period of the bid specified in the bid form, or
- (B) Informing him that his bid was accepted by the buyer during the validity period of the bid:
  - (1) Failing or refusing to implement the contract form, if required, or
  - (2) Failing or refusing to submit a good performance guarantee according to the instructions to bidders.

The validity period of this bid guarantee ends:

- A) If the bidder was awarded the bid, once we receive the contract copies signed by the bidder and good performance guarantee issued to you by the bidder, or
- B) If the bid was not awarded to the bidder, if preceded by:
  - (1) Our receipt of a copy of your notification to the bidder that the bid was not awarded, or
  - (2) After twenty eight days from the completion of validity period of the bidder's bid.

Therefore, any request to pay under this guarantee must be received by us in the bureau at that date or before it.

This guarantee is subject to the unified laws of the guarantees request, **issued according to the Iraqi Law.**

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[Signature (signatures) representative (representatives) authorized (authorized)]

## **Authorization of the Manufacturing Party**

The bidder has to request from the manufacturing party to fill this form according to the specified instructions. This letter of authorization shall be on paper with a logo of the manufacturing party and signed by the person authorized to sign the required documents for the factory, and the bidder shall enclose them in his bid if referred to in the bid data sheet.

Date (Insert the date, day/month/year to submit the bid)

No. of general tender (Insert number of tender)

Alternate No. (Insert identification number if the bid was for an alternate person)

To (Insert name of buyer)

Where

We (Insert full name of factory), the official manufacturers of (Insert type of the manufactured material), we own the plants located on (Insert full address of plants owned by the manufacturing party), we authorize (Insert full name of bidder) to submit his bid which includes supplying of commodities listed later on and manufactured by us (insert name of commodity with a brief description), we authorize him to negotiate and sign the contract.

Hereby, we submit this complete guarantee and undertaking according to the provisions of Para (27) of the general conditions of the contract for commodities offered by the bidder.

Signature (Insert signatures of the authorized representative personnel for the manufacturing party)

Name (Names of authorized representatives of the manufacturing party)

Position (Insert position)

Duly authorized to sign this authorization on behalf of (Insert full name of the bidder)

Signature (Insert signature)

Date (Day/Month/Year)

## Section Five: Eligible Countries

Eligibility to provide commodities or execute the works or services in the contracts financed by the buyer:

1. The buyer has the right to allow organizations and personnel of all countries to supply commodities or execute the works or offer services to the projects financed by the Iraqi government, and as an exception, it prevents organizations in countries or the commodities manufactured in the countries from participating in tenders in the following cases:
  - A- The legislations or prevailing regulations prohibit the employer's country from establishing commercial relations with that country, provided, the buyer is convinced that such prohibition will not prevent achieving fruitful competition to supply the commodities or execute the works.
  - B- In response to the decision issued by the United Nations / Security Council under chapter seven of the constitution of the United Nations which prohibit the country of the buyer from contracting to import any commodities or pay any amounts to the country of the bidder.
2. For the review of the bidders thereon, we include the commodities, services and organizations that are prohibited from participating in this tender according to the mentioned instructions.

a) Regarding Para1-(A)above.

**Israel**

b) Regarding Para 1-(B)above.

## **Part Two**

# **Requirements of Supplying for The Contracts of Supplying Commodities**

## Section Six: Schedule of Requirements for The Contracts of Supplying Commodities

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4- Drawings .....	خطأ! الإشارة المرجعية غير معرفة.
5- Test and Engineering Inspection.....	خطأ! الإشارة المرجعية غير معرفة.

## 1. List of Goods and Delivery Schedule

Line Item N°	Description of Goods		Quantity	Physical unit	Final (Project Site) Destination CIP –SRC	Delivery Date		
						Earliest Delivery Date	Latest Delivery Date	Bidder's offered Delivery date [to be provided by the bidder]
A	B		C	D	E	F	G	H
								<i>[insert the number of days following the date of effectiveness the Contract]</i>
1.	Speed reducer Type QVR Z 2L- CUN 5 , Hansen P4		2	NOS	CIP –SRC warehouse / Basra		360 Days	
2.	Complete axial fan fan type : 2475E LFA 6		2	NOS				
3.	FAN STACK and all accessories		2	NOS				
4.	Drive shaft		4	NOS				
5.	Driver		2	NOS				
	<b>Spare parts for item ( 1 &amp; 2 )</b>							
	<b>Parts description</b>	POS NO						
6.	Shaft	2601	1	NOS				
7.	Gear	2701	1	NOS				
8.	Pinion	2702	1	NOS				
9.	Gear	2903	1	NOS				
10.	Pinion	2904	1	NOS				
11.	Key	4101	1	NOS				
12.	key	4103	1	NOS				
13.	key	4121	1	NOS				
14.	key	4124	1	NOS				
15.	Bearing	6001	1	NOS	CIP –SRC warehouse / Basra	360 Days		
16.	Bearing	6002	1	NOS				
17.	Bearing	6003	1	NOS				
18.	Bearing	6004	1	NOS				
19.	Bearing	6009	1	NOS				
20.	Bearing	6010	1	NOS				
21.	Oil seal	6502	2	NOS				
22.	Oil seal	6509	2	NOS				
23.	Oil seal	6529	2	NOS				
24.	Back stop	7409	1	NOS				
25.	NILOS RING	7702	2	NOS				
26.	NILOS RING	7703	2	NOS				

27.	SET OF Blades for fan type : 2475E LFA 6	N/A	1	SET				
28.	Manual for operation , maintenance , installation )	N/A	4	NOS				

## 2. List of Related Services and Completion Schedule(N/A)

Service N°	Description of Service	Quantity <sup>1</sup>	Physical Unit	Place where Services shall be performed	Final Completion Date(s) of Services
<i>[insert Service No]</i>	<i>[insert description of Related Services]</i>	<i>[insert quantity of items to be supplied]</i>	<i>[insert physical unit for the items]</i>	<i>[insert name of the Place]</i>	<i>[insert required Completion Date(s)]</i>
	(N/A)				

## 3. Technical Specifications

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

Item No	Name of Goods or Related Service	Technical Specifications and Standards
1	Speed reducer	Complete speed reducer Type QVR Z 2L- CUN 5 , Hansen P4
2	axial fan	Complete axial fan (shall be balance ) fan type : 2475E LFA 6 medium : air
3	FAN STACK	FAN STACK and all accessories . Fan stack dimension (mm ) 2560 X 1500 Diameter of cylindrical part (mm) 2560 Diameter tolerance (mm) 85 Fan stack height (mm) 1500 Fan stack material : FRP
4	Drive shaft	Drive shaft Carbon fiber TYPE (350.275) ,DBSE (1000 mm) ( Rexnord Addax composite cooling tower coupling )
5		3ph induction motor squirrel cage, cast iron and copper winding, Fan Cooled .TEFC

	Driver	Drive standard : IEC. Mounting : horizontal , foot mounting B3 Volt / Phases /HZ : 380 v /3ph / 50 . Poles number : 4 Enclosure : IP 55 Explosion proof : EExd IIBT3 Duty service : S1 Insulation class : F Lubrication : Grease Temperature Rise : B Ambient temperature : ( -2 to 55°C ) Motor should be include gland cable
6	Spare parts	Supply Spare parts for item ( 1 & 2 ) Spare for gear box From item ( 6 to 27 ) Spare for axial fan item 27
7	Manual for( operation , maintenance , installation )	manuals (installation -operation –maintenance) for gear box , axial fan , drive shaft ,motor and all accessories in English language in four copies and also tow copies of it in (compact disc) have to providing and spare parts list

#### 4. Drawings(N/A)

There is{ {NO Drawings} } in the Bidding Documents .

List of Inspections and Tests		
Line Item No	Brief Description of Item	Inspection and/or Test
1.	Speed reducer	1- Provide SRC with Third party inspection certificate from one of the an international inspection companies fixed below :: 1-BUREAU VERITAS 2-TUV RHEINLAND 3-LLOYD’S REGISTER 4-INTERTEK GLOBAL 5- DNV 2- The third party should be performs visual inspection of all manufacturer recommended.
2.	axial fan	
3.	FAN STACK	
4.	Drive shaft	
5.	Driver	
6.	Spare parts From item (6 to 27)	

**Part Three**  
**Conditions and Forms of the Contract for**  
**The Contracts of Supplying Commodities**

**Section Seven: General Conditions of the Contract for**  
**The Contracts of Supplying Commodities**

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## Section Seven: General Conditions of the Contract

### 1- Definitions

1-1- The following words and expressions shall have the meanings stated next to each:

- a- "Contract" means the agreement entered into by the Parties (Buyer and Supplier), in addition to the Contract Documents, to include all annexes and supplements thereto and any other documents referred to herein.
- b- "Contract Documents" means the documents stated in the Contract Agreement, as amended.
- c- "Contract Price" means the amount to be paid to the supplier as stated in the Contract, liable to increase, decrease and revision according to the Terms of Contract.
- d- "Day" means the day in Gregorian calendar.
- e- "Completion" means completion by the Supplier of the services related to the Contract in accordance with the terms and conditions stated in the Contract.
- f- "Commodities" means the Commodities, raw materials, machines, equipments and/or other materials that should be provided by the Supplier to the Buyer under the Contract.
- g- "Buyer's Country" means the country specified in the Special Conditions of the Contract.
- h- "Buyer" means the (Ministry/Department) purchasing the Commodities and Related Services, as stated in the Special Conditions of the Contract.
- i- "Related Services" means the services associated with the supply of Commodities, such as insurance, installation, training, primary maintenance and other obligations of the Supplier under the Contract.
- j- "Subcontractor" means any natural personality or any public or private organization, or combination thereof, which contracts with the Supplier on the supply of part of the Commodities ordered or execution any part of their Related Services.
- k- "Supplier" means any natural personality or any public or private organization, or combination thereof, which Bid is approved by the Buyer and is named in the Contract.
- l- "Point of Delivery" is the place mentioned in the Special Conditions of the Contract.

## 2- Contract Documents

2-1- All the documents constituting the Contract and all parts thereof, as per their order in the Contract are interconnected and integrated and construed each other. The Contract shall be read as a whole.

## 3- Corruptions and Fraud

If the Buyer is fully convinced that the Supplier is involved in any fraudulent, corrupt, collusive, coercive or obstructive practice during the competition procedure or Contract execution, the Buyer shall have the right, 14 days after giving a notice thereof to the Supplier, to suspend the Supplier's work and cancel the Contract. The provisions of 35-1 shall be applied.

3-1- The Buyer(Ministry/Department) shall require the Bidders, Suppliers, Contractors or Advisors to adhere to the higher standards of business ethics during the period of supply and contract execution. In order to achieve this policy, the Buyer:

a- Defines, for the purpose of these provisions, the below stated terms, as follows:

- 1) "Corrupt Practice" means offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence the actions of a public official<sup>7</sup> throughout the outsourcing process or contract execution.
- 2) "Fraudulent Practice" means any misrepresentation or omission of any fact in view to influence the outsourcing process or contract execution.
- 3) "Collusive Practice" means any scheme or arrangement between two or more Bidders, with or without knowledge of the Buyer, in view to establish artificial and noncompetitive prices.
- 4) "Coercive Practice" means harming or threatening to harm, directly or indirectly, the persons or their properties to influence their participation in the outsourcing processes or influence the contract execution.
- 5) "Obstructive Practice":

First: To intentionally destroy, falsify, distort or conceal investigation-required substantial documents or give false testimony to investigators to obstruct the investigation procedures in any of the abovementioned practices through threatening, provoking or intimidating any Party and prevent it from giving any investigation-related information.

Second: Also means the practices that obstruct the buyer's practicing its right of auditing and revision, as per 11/Inspection and Auditing by the Bank.

3-2- Shall be dismissed from work any employee of the Supplier if it is proved that it is involved in any corrupt, fraudulent, collusive, coercive or obstructive practice during the procedures of contracting on purchasing the Commodities .

## 4- Interpretation

4-1- If required by the context, singular may refer to plural and vice-versa.

4-2-

a- Unless there's contradiction with any conditions in the Contract, the construction of commercial terms and rights and obligations of the Contract Parties shall as specified in the INCOTERMS.

b- CFR, FCA, CIP, EXW and other similar abbreviations, when used, shall be subject to the rules referred to in the applicable version of INCOTERMS as referred to in the Special Conditions of the Contract issued by the International Chamber of Commerce, Paris.

#### 4-3- Entire Agreement:

The Contract consists of the entire agreement between the Buyer and the Supplier, all correspondences, negotiations and agreements (whether oral or written) made between the Parties before the date of signing the Contract shall be void.

#### 4-4- Amendment

Any change or amendment to the Contract shall have no legal effect unless it is in writing, dated and refers to the Contract specifically. Also, it shall be signed by a duly authorized representative of each Party.

#### 4-5- No Assignment

a- According to 4-5-b/General Conditions of the Contract, any delay, lingerer or grace from any Party in the application of any if the Contract terms and conditions or complying with time shall not have effect on any of the other Party's rights stated in the Contract. Also, any waiver by any Party of any breach of the Contract shall not constitute a waiver of any thereafter breach(es) of the Contract.

b- Any assignment by any Party of rights, powers or right recovery under the Contract shall be in writing, dated and signed by authorized representative of the assigning Party. Also, the right and the extent of assignment shall be specified.

#### 4-6- Contract Conditions Validity

If any provision or condition of the Contract is found to be legally prohibited, invalid or inapplicable, such prohibition, invalidity or inapplicability shall not affect the validity or applicability of any other provision or condition of the Contract.

## 5- Language

5-1- The Contract, and all its related correspondences and documents exchanged between the Buyer and the Supplier, shall be written in the language specified in the Special Conditions of the Contract. The supporting documents and printed matters that are considered part of the Contract can be in another language, provided that these shall be accompanied with a true translation into the specified language; such translation shall be adopted for the purpose of Contract construction.

5-2- The Supplier shall be charged with all the expenses of translating any documents it submits into the approved language and shall be responsible for the accurate translation of the documents provided by the importer.

## 6- Joint Venture or Group of Companies or Organizations

6-1- If the Supplier is a joint venture or a group of companies or organizations, all Parties shall be considered jointly and severally liable to the Buyer for the execution of the provisions of the contract and the shall appoint one Party of them to act as authorized head to enter into obligations on behalf of the joint venture of the group of companies of organization. The JV or the group of companies or organization may not be restructured or reorganized without prior written consent by the Buyer.

## 7- Qualification

7-1- The Supplier and its Subcontractors shall have nationalities of eligible countries. The Supplier or its Subcontractor is considered having nationality of a country if it is a resident therein or is incorporating or holding shares in a company or registered and doing business under the provisions of the laws of such country.

7-2- All Commodities and Related Services to be supplied under the Contract and funded by the Buyer shall be originated from an eligible country. For the purpose of this Clause, the origin means the country in which the Commodities, or the commodities produced from manufacturing, processing or assembling essential components of trade mark that has substantially different characteristics than those of their final product, are agriculture, bred, mined, manufactured or processed.

## **8- Notification Memos**

8-1- Any notice of legal action given by a Party to the other according to the Contract shall be in writing and sent to the address specified in the Special Conditions of the Contract. "In writing" means written with receipt acknowledged.

8-2- The notice shall be deemed valid as of the date of receipt or applicability thereof, whichever is later.

## **9- Governing Law**

9-1- The Contract is governed by and construed according to the applicable law in the Republic of Iraq.

## **10- Settlement of Disputes**

10-1- Amicable Resolution:

The Buyer and the Supplier shall exert every reasonable effort to resolve any dispute to arise between them according or connected to the Contract through direct amicable negotiations.

10-2- Arbitration

Failure by the Parties to resolve the dispute within 28 days after starting the negotiations stated in 10-1, any Party may give the other a notice informing it with its intent to resort to arbitration with respect to the subject of dispute. The arbitration procedure shall not be started before the other Party's receipt of such notice. It is possible to start arbitration procedures under the Contract before or after the supply of commodities. The arbitration procedures shall be followed according to the rules stipulated in the Special Conditions of the Contract.

10-3- The choice of arbitration does not prevent the following:

- a- The Parties to continue fulfillment of their obligations according to the Contract, unless they agree otherwise.
- b- The Buyer to make any due payments to the Supplier.

## **11- Audit and Review by the Buyer**

In the Contracts resulting from direct invitation or single offer (monopoly) method, if stipulate in the Bids Data Sheet, the Buyer shall have the right to inspect the Supplier's office and check and audit its accounts and records, as well as its Subcontractors, so far as it is connected to the contract execution and/or the persons they appoint. Such accounts and records shall be audited by auditors appointed by the Buyer, if required by the Buyer.

## **12- Scope of Supply**

12-1- The Commodities and Related Services shall be according to those specified in the Table of Requirements.

## **13- Delivery and Documents**

13-1- As per 33-1/General Conditions of the Contract, the delivery of commodities and completing the execution of Related Services shall be according to the delivery and completion schedule stated in the Table of Requirements. The Supplier shall provide shipping details and any documents stated in the Special Conditions of the Contract.

## **14- Supplier's Responsibilities**

14-1- The Supplier shall provide all Commodities and Related Services stated in the Scope of Supply according to 12/General Conditions of the Contract and the Delivery and Completion Schedule and as stated in 13/General Conditions of the Contract.

## **15- Contract Price**

15-1- The amounts earned by the Contract's Supplier from the Buyer for the Commodities and Related Services shall conform to those specified in its Bid, except for any prices duly amended according to the Special Conditions of the Contract.

## **16- Terms of Payment**

16-1- Contract Price, to include the payments made (if applicable), shall be paid as stated in the Special Conditions of the Contract.

16-2- The Payments due to the Buyer shall be made in writing, accompanied with the receipts that describe the Commodities and Related Services executed and with the documents required as per 13/Special Conditions of the Contract, upon completion of all obligations stipulated in the Contract.

16-3- The due payments shall be made to the Supplier immediately. In no case the payment shall be delayed for more than 60 days after delivery of receipts and acceptance by the Buyer thereof.

16-4- The Supplier's due payments specified in the Contract shall be made in the currencies stated in the Contract.

16-5- Failure by the Buyer to make any due payment on time or within the period specified in the Special Conditions of the Contract, it shall pay interest on the delayed amount at the rate specified in the Special Conditions of the Contract, throughout the delay period and until payments are made in full, whether before or after the court's, or arbitration's, award.

## **17- Taxes and Fees**

17-1- For the Commodities manufactured outside the Buyer's country, The Supplier is liable for all taxes, stamp fee, export license fee and any other fees applicable outside the Buyer's country, **according to the prevailing legislations**

17-2- For the Commodities manufactured within the Buyer's country, the Supplier shall be liable for all taxes and fees applicable thereto until the delivery of Commodities contracted on to the Buyer, **according to the prevailing legislations**

17-3- The Buyer shall exert every effort to facilitate the Supplier's obtaining any tax exemptions, discounts or exceptions in view to realize maximum reduction in the Commodities ' amount.

## **18- Good Performance Guarantee**

18-1- If the **good** Performance Guarantee is required in the Special Conditions of the Contract, the Supplier shall provide the guarantee specified within **28** days after its being notified with awarding the tender in its favor, unless stated otherwise in the Bids data sheet.

18-2- The amounts of **good** performance guarantee shall be released to the Buyer as indemnification for any loss to occur due to failure by the Supplier to finalize its obligations under the Contract.

18-3- The **good** performance guarantee, if required, shall be in any of the forms stipulated in the Special Conditions of the Contract, or any form approved by the Buyer.

18-4- The Buyer shall return to the Supplier the **good** performance guarantee after **28** days from the Supplier's completing fulfillment of all its obligations under the Contract, to include any obligations of manufacturer's guarantee, unless the Special Conditions of the Contract state otherwise.

## **19- Copy rights**

19-1- Copyrights on all drawings, documents and other materials that include data and information submitted by the Buyer remain registered in the Supplier's name. If these were submitted directly to the Buyer from the Supplier or a third Party, to include Commodities suppliers, the copyrights remain registered in the name of such third Party.

## **20- Confidential Information**

20-1- Both the Buyer and the Supplier shall strictly keep confidential and not disclose any documents, data or information related, directly or indirectly, to the Contract to any third Party, whether such information are submitted before or during signing, executing or cancelling the Contract, without obtaining the Second Party's written consent. To be excepted from this condition any information, data or documents necessary for the Supplier to have part of the Contract performed through Subcontractors; in which case, the Supplier shall impose confidentiality obligation on the Subcontractor similar to that applies to it as per 20/Special Conditions of the Contract.

20-2- The Buyer or the Supplier shall not use any of the documents, information and data they obtain from each other for any purpose other than the Contract entered into between them.

20-3- Compliance by the Contract Parties to 20-1 and 20-2/General Conditions of the Contract above shall not apply to the following information:

- a- If the Buyer or the Supplier is required to disclose such information to any other body contributing in funding the project,
- b- If such information has become public due to a reason beyond the control of either Party,
- c- If the relevant Party can prove that it possesses such information when it received them and that it had obtained them through other means with no direct or indirect relation to the other Party, or

d- If either Party obtains the same validly from a third Party that has no obligation of confidentiality.

20-4- The provisions of 20/General Conditions of the Contract shall in no way amend the confidentiality obligation given by any Party before signing the Contract with respect to the Supply or any part of the Contract.

20-5- The provisions of 20/General Conditions of the Contract shall survive the termination or completion of the Contract.

## **21- Subcontracts**

21-1- The Supplier shall notice the Buyer in writing with all subcontracts related to the execution of the Contract, if this is not specified in the Bid. This notice, whether in the Bid or in a later time, shall not relieve the Supplier from its obligations, duties or responsibilities under the Contract.

21-2- Subcontracts shall be according to the provisions of the General Conditions of the Contract.

## **22- Specifications and Standards**

22-1- Technical Specifications and Drawings

a- The Commodities and Related Services provided under the Contract shall conform to the technical specifications and standards mentioned in S6 and the Table of Requirements. In the event no standard is stated, then the standard shall equal or exceed the official standards adopted in the Commodities ' countries of origin.

b- The Supplier may disclaim liability for any design, data, drawings, specifications, documents or amendments provided or made by or on behalf of the Buyer, provided that it shall submit a notice of Buyer's disclaimer.

c- Whenever the Contract refers to the standard conditions and performance rules under which the Contract is to be executed, then the reference is to the version or update of such rules and specifications, as specified in the Table of Requirements.

d- Any amendment to such specifications and performance rules during the Contract execution shall not be adopted unless is preceded by the Buyer's prior consent. Such amendment shall be treated according to 33/General Conditions of the Contract.

## **23- Packaging and Documents**

23-1- The Supplier ensures that the Commodities are shipped to their destination as stated in the Contract in a way that guarantees that no damage to occur thereto. Packaging, through the transportation duration, shall be adequate to protect rough handling and exposure to high temperatures, salts, sweats and open- air storage. Also shall be considered the size and weight of packaging boxes, distance of destination and lack of heavy handling equipments throughout the transportations phases, to include the transit.

23-2- Packaging, tagging and documentation in and outside the packages shall be according to the special requirements stipulated in the Contract or any other requirements specified in the Special Conditions of the Contract or any other instructions issued by the Buyer.

## **24- Insurance**

24-1- Unless the Special Conditions of the Contract states otherwise, shall be procured overall insurance on the Commodities imported according to the Contract in a currency that is transferrable to an eligible country. Insurance shall be against loss or damage resulting from manufacture and/or purchase, transportation, storage or delivery.

## **25- Transportation**

Unless the Special Conditions of the Contract states otherwise, the responsibility for arrangement for Commodities transportation shall be according to the INCOTERMS rules.

## **26- Test and Engineering Inspection**

26-1- The Supplier shall, at its own expense, conduct the engineering inspection and tests required for the

Commodities and Related Services, as specified in the Special Conditions of the Contract.

26-2- The engineering inspection and tests may be conducted in the headquarters of the Supplier or the importer's Subcontractor, upon delivery and/or arrival at destination or any other place in Iraq according to the stipulations of the Special Conditions of the Contracts. In the event tests are conducted in the headquarters of the Supplier or the Supplier's Subcontractor, then the Supplier, under 26-2/General Conditions of the Contract, shall offer all facilities and assistance necessary for the testing team, to include the drawings and production data, without incurring additional cost to the buyer.

26-3- The Buyer or its representative may attend the engineering inspection and testing as per 26-2/General Conditions of the Contract, provided that the Buyer shall be charged with all its personal costs and expenses to incur from its attendance, including but not limited to the costs of travel and accommodation.

26-4- The Supplier, before conducting the engineering inspection and tests, shall give the Buyer a prior notice of the date and place in which they are conducted. Also, it shall obtain authorization or consent by any relevant third Party or manufacturer on attendance by the Buyer or its representative in such engineering tests and/or inspection.

26-5- The Buyer, if deems necessary, may require the Supplier to conduct any engineering tests and/or inspection that is not mentioned in the Contract, to verify that the characteristics and performance of such Commodities conform to the technical specifications, rules and standards stated in the Contract, provided that the reasonable costs and expenses to incur by the importer for conducting such engineering tests and/or inspection shall be added to Contract Price. Shall be considered any delay in the delivery dates, completion dates and other obligations affected due to such engineering tests and/or inspection in the course of manufacture and/or the importers' fulfillment of their obligations under the Contract.

26-6- The Supplier shall submit to the Buyer a report on the results of all the engineering tests and inspections conducted.

26-7- The Buyer may reject the Commodities or any part thereof which are proved by the engineering test and/or inspection to be nonconforming to the specifications. The Supplier shall, at its own cost, repair or replace such rejected Commodities or make the necessary modifications thereon to render them conforming to the specifications and shall, after giving the Buyer a prior notice according to 23-4/General Conditions of the Contract, repeat the engineering test and/or inspection.

26-8- The importer's approval on conducting any engineering test and/or inspection, attendance by the Buyer or representative thereof and issuing any report required under 23-6/General Conditions of the Contract shall not relieve it from any other warranties or obligations stated in the Contract.

## **27- Delay Penalties**

27-1- Except for the terms stipulated in 32/General Conditions of the Contract, failure by the Supplier to deliver all or any of the required Commodities on the date(s) of delivery specified in the Contract, the Buyer shall have right, without prejudice to other Contract terms, to deduct from the Contract Price as penalty of delay, an amount equals the rate stated in the Special Conditions of the Contract for the delivery price for late Commodities or unexecuted Services per week of delay or part thereof, until their actual delivery or execution. In the event of reaching the upper limit, the Buyer may terminate the Contract according to 35/General Conditions of the Contract.

## **28- Manufacturer's Guarantee**

28-1- The Supplier guarantees that all Commodities shall be brand new, state-of-the-art and involve all developments in design and materials, unless the Contract states otherwise.

28-2- According to 22-1-b/General Conditions of the Contract, the importer guarantees that the Commodities shall be free of any faults resulting from any omission by the importer or resulting from the design, materials or manufacture, which may appear under the prevailing conditions in the country of destination.

28-3- The guarantee of Commodities or any part thereof shall be valid for 12 months as of the date of delivery and approval thereof at the point delivery specified in the Special Conditions of Contract or for 18 months as of the date of shipping thereof from the port of point of loading in the country of origin, provided that the period to elapse first shall be considered.

28-4- The Buyer shall notify the Supplier on any faults to appear in the Commodities and the nature of such faults, accompanied with all evidences available upon discovering such faults. The Buyer shall give the Supplier ample time to inspect the faults.

28-5- On receiving such notification, the Supplier shall, within the period specified in the Special Conditions of the Contract, repair or replace such Commodities or the damaged part thereof without charging the Buyer with additional cost.

28-6- Failure by the Supplier, within the period specified in the Special Conditions of the Contract, to repair or replace the Commodities, the Buyer, within reasonable time, shall take every corrective action it deems necessary at the Supplier's cost and responsibility without prejudice to any of the Buyer's other rights in the Contract.

## **29- Indemnification for Patents**

29-1- The Supplier, as per 24-2/General Conditions of the Contract, shall indemnify the Buyer without burdening it and the employees and executives serving it with any liability for and/or against all lawsuits, actions, legal proceedings, claims, demands, losses, damages, costs or any expenses, to include the attorney fees, which the Buyer may suffer from as a result of breach or alleged breach of any registered patent, model or design or trade mark or copyright or any other intellectual property rights registered or exist in any other form upon signing the Contract due to the following:

- a- Installation of Commodities by the Supplier or using the same in the site's Country, and
- b- Selling the products of such Commodities in any other Country.

Such indemnification shall not cover any other use of such Commodities or any Part thereof for other than their purpose stated or that could be concluded from the Contract. The indemnification does not cover any breach resulting from using such Commodities or any parts thereof or any of their products resulting from their connection or installation with any equipments or materials not imported by the Supplier according to the Contract.

29-2- If any actions are taken or any claims are made against the Buyer due to a matter stated in

29-1/General Conditions of the Contract, it shall notify the Supplier therewith promptly. The Supplier may, at its own cost, and in the name of the Buyer, make and claim or action or any negotiations to reach settlement to such claim or action.

29-3- Failure by the Supplier to notify with its intent to make any claim or action within twenty eight days as of the date of notification, the Buyer shall have the right to take the same actions.

29-4- The Buyer shall, at the Supplier's request, attempt at providing reasonable assistance in instituting such claims or actions; any additional costs resulting from such assistance shall be reimbursed by the Supplier.

29-5- The Buyer shall indemnify and clear the Supplier and the employees, executives and Subcontractors serving its from and against all the lawsuits, actions, administrative procedures, claims, demands, losses, damages, costs or any expenses, to include the attorney fees, which the Supplier may suffer due to breach or alleged breach of any patent, model or design or trade mark or copyright or any other intellectual property rights registered or exist in any other form upon signing the Contract due to or related to any design, data, drawing, specifications, documents or other materials provided or designed by the Buyer or in its behalf.

### **30- Limits of Liability**

Except of omission or intentional misconduct:

a- The Buyer shall not be liable in tort or otherwise to the Buyer under the Contract for any indirect losses or the losses resulting from damage to the commodities or using thereof or production or any loss of profit. However, this exemption shall not relieve the Supplier from the payment of any indemnification for the damages agreed to with the Buyer.

b- Total Supplier's liability in tort or otherwise to the Buyer shall not cause increase of the Contract Price. However, this limitation shall not exceed the Contract Price provided that this limitation of liability shall not include the costs of repair or replacement of damaged equipments or the obligation to indemnify the Buyer for any breach of the Commodities ' specification.

### **31- Change in Laws and Regulations**

31-1- Unless the Contract states otherwise, if there's any change to any laws, regulations, decrees or bylaws or was rendered operative or revoked any of the laws applicable in Iraq within 28 days before the Bid's submission date (where this includes any change to the application or construction of the Contract by the competent authorities) and thus affecting the delivery date and the Contract Price, then this shall, in turn, be amended in the amount they affected there by the Supplier's performance and obligations with respect to the Contract. The amendment of prices shall be increase or decrease, as well as the delivery times, in a way that shall not cause such laws and instructions to have effect on the Supplier in meeting its obligations. Notwithstanding the above, the Supplier shall not be given the increase or decrease, if the same is redressed according to 15/General Conditions of the Contract on Price Revision.

### **32- Force Majeure**

32-1- The Performance Guarantee submitted by the Supplier shall not be confiscated, the Supplier shall not pay the penalty of delay, and the Contract shall not be terminated due to faults if the delay in performance or any other default in performing its obligations according to the Contract results from a Force Majeure.

32-2- "Force Majeure", for the purpose of this Clause, means any case or event beyond the Control of either Party, could not be expected and is not due to omission or default by

either Party. Such cases include but are not limited to war, revolution, fire, flood, epidemic, health quarantine or shipping prohibition.

32-3- The Supplier shall inform the Buyer in writing promptly with the occurrence of Force Majeure and the causes thereof. The Supplier shall, thereafter, attempt at performing its obligations within the limits of the new condition or explore other options to complete work, unless the Buyer requires otherwise there from.

### **33-Change in Orders and Amendment to Contract**

33-1- The Purchase may, any time, require the Supplier in writing according to 8/General Conditions of the Contract, to change the Contract's general scope in one or more of the following:

- a- Drawings, designs and specifications if the commodities to be provided according to the Contract are manufactured specifically to the Buyer.
- b- Method of Packaging and Shipping.
- c- Point of Delivery.
- d- Related services to be provided by the Supplier.

33-2- If any of such changes lead to difference in price, whether increase or decrease, or in the time required to perform the work or the Supplier's execution of any of the Provisions in the Contract, then equal amendment to the Contract Price and the delivery and completion schedules shall be made. The Supplier shall require amendment under this Clause within 28 days after its receipt of the Change Order from the Buyer.

33-3- The Parties shall agree in advance on the price of any service related to the Contract which the Supplier may require by the Supplier but not stated in the Contract, provided that the price thereof shall not exceed the rates required by the Supplier for the same services from other Parties.

33-4- According to above, no amendments or changes to the Contract Conditions shall be accepted unless they are in writing and signed by the Parties.

### **34-Extension of Term**

34-1- If the Supplier or any of its Subcontractors experiences, during the period of Contract execution, circumstances that delay delivery of Commodities or completion of the Related Services in time, as per 13/General Conditions of the Contract, the Supplier shall inform the Buyer therewith in writing within 15 days as of the date of occurrence of the circumstance, stating the cause and period of continuity thereof, provided that the Buyer shall evaluate the condition promptly on receiving the notification and may extend the Contract. In which case, the Parties shall approve the extension through Contract amendment.

34-2- Except for the Force majeure stated in 32/General Conditions of the Contract, any delay in performance or delivery and fulfillment of the obligations, the Supplier shall be subject to penalty of delay as per 26/General Conditions of the Contract, unless it was agreed to extension of the Term of Contract as per 34-2/General Conditions of the Contract.

### **35- Work Withdrawal**

35-1- **work withdrawal for violation or default by the Supplier:**

The Buyer may, after giving the Supplier a 15- day written notice, has the right to withdraw work, in the following cases, without referring to the court:

- b) If the supplier goes bankrupt or announce his Insolvency.
- c) If the supplier submits a request for bankruptcy or insolvency.
- d) If a decision is issued by the court to place the (supplier's) funds under the control of bankruptcy trustee (syndicate).
- e) If the supplier makes a reconciliation that preserves him from bankruptcy or waives his rights to his creditors.
- f) If the supplier agrees to implement the contract under the supervision of the control board of his creditors
- g) If the supplier is a company that has announced liquidation, excluding the optional liquidation for the purpose of merger or reformation.
- j) If the funds of the contractor are seized by a court of competency and this seizure may lead the contractor to be unable to fulfill his obligations.
- i) If the supplier has failed, without an acceptable excuse, to continue executing the contract or the work progress is stopped for a period of (15) days.
  
- k) If the supplier has not implemented the contract or has intentionally negligent and careless in fulfilling his obligations according to the contract.
- l) If the commodities have not fulfilled the technical specifications specified in the contract, or if the supplier fails in replacing the commodities with a period of (30) days from receiving a written notice from the buyer.
- m) If the supplier fails in delivering the commodities within the period specified in the contract or within the extension period given by the buyer according to Para 34 of the General Conditions of Contract.
- n) If the supplier fails in performing any of the other tasks commissioned to him according to the contract.
- o) if the supplier is involved, according to the buyer's contentment during the period of contract execution, fraud or corruption practices specified in Para 3 of the General conditions of Contract , in his competition on the contract or in it execution.
- p) If the supplier has subcontracted concerning any section of the contract in way that harms the work quality or violates the instructions of the buyer.
- q) If the supplier submitted or offered to any person ( directly or indirectly) a bribery, present, grant, commission , financial gift as an arousal of interest, reward for perform a work, or refraining from performing a works related to the contract.
- s) If it is clear to the buyer that the suupplier has practiced any of administrative corruption, fraud, collusion, oppression or hindrance during the competition in order to obtain or execute the contract, and then the buyer has the right, within 15 days after notifying the supplier, to warn him.

The Buyer considers the following definitions for this purpose:

- 1) "Corrupt Practice" means offering, giving, receiving or soliciting, directly or indirectly, anything of value to influence the actions of a public official throughout the supplying process or contract execution.
- 2) "Fraudulent Practice" means any misrepresentation or omission of any fact in view to influence the supplying process or contract execution.
- 3) "Collusive Practice" means any scheme or arrangement between two or more Bidders, with or without knowledge of the Purchaser, in view to establish artificial and noncompetitive prices.
- 4) "Coercive Practice" means harming or threatening to harm, directly or indirectly, the persons or their properties to influence their participation in the acquisition processes or influence the contract execution.
- 5) "Obstructive Practice": means to destroy intentionally, falsify, distort documents and conceal investigation-required evidences or give false testimony to investigators to obstruct the Purchaser's investigation procedures in the corrupt, fraudulent, collusive, coercive practices or threaten, provoke or obstruct any party and prevent it from giving any investigation-related information or prevent it from following up the investigation procedures.

### **36- Waiver**

36-1- The Buyer or the Supplier may not assign their obligations stated in this Contract, in whole or in part, without prior written consent by the other Party.

### **37- Restrictions on Exports**

Without omission of the Supplier's responsibility for the execution of the export documents specified in the Contract, the Supplier shall be relieve from its obligation to supply the Commodities and Related Services in the event any new restrictions on the exporting procedures are imposed by the Buyer or the Buyer's country or a change is made to using the product or the Commodities to be imported that may arise due to trade instructions issued by the country supplying such products and Commodities . However, this shall not relieve the Supplier from its responsibility for acquainting the Buyer with all its procedures taken, supported with documents, all export phases to include its request submitted to obtain export license or authorization letter from the manufacturer as specified in the Contract. In which case, the Contract shall be terminated at the Buyer's convenience as per Para (35-3).

**Section Eight: Special Conditions of the Contract for Commodities Supply Contracts**

The following Special Conditions of Contract (SCC) shall supplement and / or amend the General Conditions of Contract (GCC). Whenever there is a conflict, the provisions herein shall prevail over those in the GCC.

1-1- h General Conditions of the Contract	Buyer: <b>Ministry of oil/South Refineries Company</b>
<b>GCC 1.1(i)</b>	Project site(s)/ Destination: <b>SOUTH REFINERIES COMPANY HEAD-QUARTER (CIP) -BASRA - REPUBLIC OF IRAQ</b>
4-2- a General Conditions of the Contract	<b>The meaning of the trade terms shall be as prescribed by Incoterms. CIP</b>
4-2- b General Conditions	The version edition of Incoterms shall be : <b>2010</b>
5-1 General Conditions of Contract	Language: <b>English , Arabic</b>
7-2 General Conditions of Contract	<b>All Goods and Related Services to be supplied under the Contract and financed by the Employer shall have their origin in Eligible Countries of origin:</b> <b>Belgium / U.S.A / Germany / Italy / France / U.K / Netherlands / Switzerland / Austria / Spain /Finland /Sweden / Japan.</b>  <b>Origin means :the country where the goods have been.</b>
8-1 General Conditions of Contract	For sending notice, the Buyer's address is: To: <b>SOUTH REFINERIES COMPANY/ STATE COMPANY</b> Street address: <b>AL SHUAIBA</b> Floor and room number: <b>Contracts&amp; Purchase Department / First Floor</b> City: <b>Basra</b> Country: <b>Republic of Iraq</b> Email: <a href="mailto:contracts@src.gov.iq">contracts@src.gov.iq</a>
9-1 General Conditions of Contract	Contracts are subject to the Iraqi law.
10-2 General Conditions of Contract	<b>A- COUNCILIATION:</b> THE PARTIES ENDEAVOUR TO SETTLE AMICABLY ANY DISPUTE ARISING OUT OF OR IN CONNECTION WITH THE P\O OR ANY PROVISION THERE OF THROUGH THE APPOINTMENT OF A COMMITTEE FROM BOTH PARTIES TO STUDY THE MATTER CAREFULLY AND COME TO AN AGREEMENT ACCORDING TO RELEVANT EFFECTIVE LAWS AND INSTRUCTIONS. FAILING THE ABOVE, EITHER PARTY SHALL REFER THE MATTER TO THE IRAQI LAWS AND COURTS .  <b>B- IRAQI COURTS:</b> IN CASE NO AMICABLY SETTLEMENT FOR ANY DISPUTE IS REACHED. THE DISPUTE SHALL BE REFERRED TO THE IRAQI COURT , AND THE P.O. IS SUBJECTED TO IRAQI LAW, REGULATIONS AND INSTRUCTIONS .

13-1 General Conditions Of the Contract	<p>Shipping and other documents to be submitted by the Supplier:  <b>THE FOLLOWING DOCUMENTS SHOULD BE SUBMITTED AT LEAST (10) DAYS PRIOR TO MATERIALS ARRIVAL TO ENTRY POINT FOR CUSTOMS CLEARANCE PURPOSE OTHERWISE THE SUPPLIER WILL. BEAR ALL CHARGES WHICH WILL OCCUR AS CONSEQUENCE FOR THE DELAY IN OFFERING THE REQUIRED DOCUMENT AT THE REQUIRED PERIOD.</b></p> <ol style="list-style-type: none"> <li>1- <b>COMMERCIAL INVOICES CERTIFIED BY IRAQI COMM. ATTACHEE OR BY THE IRAQI EMBASSY IN CASE OF NO EXISTENCE OF COMM. ATTACHEE ..</b></li> <li>2- <b>BILL OF LADING/GMR/AIRWAY BILL</b></li> <li>3- <b>PACKING LIST</b></li> <li>4- <b>INSURANCE POLICY OR CERTIFICATE OF INSURANCE</b></li> <li>5- <b>CERTIFICATE OF ORIGIN CERTIFIED BY IRAQI COMM. ATTACHEE IN THE COUNTRY OF ORIGIN OR BY THE IRAQI EMBASSY IN CASE OF NO EXISTENCE OF COMM. ATTACHEE .</b></li> <li>6 – <b>THIRD PARTY INSPECTION CERTIFICATE FROM INTERNATIONAL INSPECTION COMPANIES AS MENTIONED IN INSPECTION ITEM.</b></li> </ol>
15-1 General Conditions of the Contract	<b>un-adjustable</b>
16-1 General Conditions of the Contract	<p><b>Sample provision</b></p> <p>GCC 16.1—The method and conditions of payment to be made to the Supplier under this Contract shall be as follows:</p> <p><b>TERMS OF PAYMENT :</b></p> <p>Method and Terms of Payment for the Supplier under this Contract are as follows:</p> <p>Payment for the Commodities supplied from outside the Buyer’s country: The currency of payment for the Commodities supplied from outside the Buyer’s country is ( US Dollar).</p> <p><b>BY ACCEPTANCE OF THE AWARDNESS AND THIS CONTRACT YOU HAVE AGREED THAT THE PRICES ARE FIRM AND NONNEGOTIABLE AND PAYMENT WILL BE MADE THROUGH IRREVOCABLE UNTRANSFERABLE UNCONFIRMED L/C AS FOLLOWS :</b></p> <ol style="list-style-type: none"> <li>1-( 50 % ) UPON SHIPMENT AND SUBMISSION OF THE NECESSARY NUMBER OF ORIGINALS AND COPIES OF THE CONTRACTORS COMMERCIAL. INVOICE CLEAN ON BOARD, BILL OF LADING OR EQUIVALENT FOR OTHER MEANS OF TRANSPORTATION. CERTIFICATE OF ORIGIN. CERTIFICATE OF INSURANCE AND PACKING LIST.</li> <li>2-( 45 % ) AFTER ACCEPTANCE OF THE SHIPMENT AND UPON SUBMISSION OF A CERTIFICATE ISSUED BY THE BAYER CONFIRMING RECEIPT OF THE SHIPMENT AND ACCEPTANCE THEREOF CHECKING AND ACCEPTANCE OF SHIPMENT SHOULD BE CARRIED OUT NOT LATER THAN (2) MONTHS OF SHIPMENT DELIVERY TO CIP/ SRC.</li> <li>3-( 5 % ) AFTER THE PERIOD OF GUARANTEE IS FINISHED</li> </ol>
16-5 General Conditions of Contracts	<p>If it is applicable (The period of payment delay that the buyer shall afterwards pay an interest is [insert number] days : <b>Not Applicable</b></p> <p>Interest rate that shall be applied is [insert number] days): <b>Not Applicable</b></p>

17-1 General Conditions of Contracts	<p>- For the Commodities manufactured outside the Buyer's country, The Supplier is liable for all taxes, stamp fee, export license fee and any other fees applicable outside the Buyer's country, according to the prevailing legislations</p> <p>- STAMP FEES WHICH IS EQUAL TO (0.003) OF THE TOTAL AMOUNT OF CONTRACT SHOULD BE BORNE BY THE SUPPLIER</p> <p>- THIS Contract IS subject TO ALL IRAQI TAX LAWS AND REGULATIONS IN FORCE.</p>
18-1 General Conditions of the Contract	<p>Performance guarantee is: <b>compulsory</b></p> <p>The <b>good</b> performance guarantee amount shall be: ( 5 )%“ OF THE TOTAL PRICE OF <b>THIS CONTRACT SUBMITTED BY THE SUPPLIER BEFORE THE CONTRACT IS SIGNED.</b></p>
18-3 General Conditions Of the Contract	<p><b>The good performance guarantee</b> shall be UNCONDITIONAL PERFORMANCE BOND, BANK GUARANTEE IN A FORMAL BANK GUARANTEE EXCLUSIVELY THROUGH TRADE BANK OF IRAQ (TBI) OR ANY IRAQI BANK DEPENDABLE BY THE CENTRAL BANK OF IRAQ.</p>
18-4 General Conditions of the Contract	<p>The <b>good performance guarantee</b> SHALL REMAIN VALID AND NOT BE RELEASED UNTIL THE SUPPLIER COMPLETES DELIVERY OF ALL MATERIALS TO THE SITE IN IRAQ AND FULFILLS ALL HIS OBLIGATIONS UNDER THE CONTRACT, <b>THE PERIOD OF GUARANTEE IS FINISHED</b> AND SETTLEMENT OF THE FINAL ACCOUNTS</p>
23-2 General Conditions Of the Contract	<p>For wrapping, tagging and documentation on envelops:</p> <p><b>The packing, marking and documentation within and outside the packages shall be: The materials shall be suitably packed for transport by sea and overland, protected against weather and other hazards to prevent damage thereto and deterioration thereof up to the time of arrival at SRC warehouses in shuaiba and receipt thereof. In case of delicate materials, attention shall be drawn to the necessary provisions for protection of such materials such as machined or lapped parts.</b></p>
24-1 General Conditions Of the Contract	<p>Insurance coverage shall be as specified in the <b>INCOTERMS</b></p>
25-1 General Conditions Of the Contract	<p>The responsibility for transportation of Commodities shall be as specified in the <b>INCOTERMS</b></p>
26-1 General Conditions of the Contract	<p>Inspection and Tests: according : <b>required according to SRC technical requirements</b></p>
26-2 General Conditions of the Contract	<p>Engineering inspection and tests shall be conducted in <b>supplier's sites (manufacturer )</b></p>

<p>27-1 General Conditions of the Contract</p>	<p>Delay Penalties shall be: <b>SUPPLIER HAS TO PAY A DELAY PENALTY FOR EACH DAY DELAY ACCORDING TO THE FOLLOWING EQUATION WHICH SHOULD NOT EXCEED (10%) OF THE TOTAL AMOUNT OF THE CONTRACT</b></p> $\frac{\text{TOTAL AMOUNT OF CONTRACT} + - \text{ANY CHANGE IN THE AMOUNT}}{\text{DELIVERY PERIOD} + - \text{ANY CHANGE IN THE PERIOD /BY DAY BEFORE THE PENALTIES REACH 10\% OF THE TOTAL AMOUNT OF THE CONTRACT. AND WHEN THE Delayed PERIOD PASS 25\% OF CONTRACT. PERIOD PLUS ALL GIVEN PERIODS THE CLIENT HAS THE RIGHT TO CANCEL THE CONTRACT OR WITHDRAW THE WORK AND THE CONTRACT. WILL BE FULFILLED ON SUPPLIER'S ACCOUNT AND SUPPLIER SHALL BEAR ALL FINANCIAL CONSEQUENCES ARISING FROM THAT WITHOUT ANY NEED FOR NOTIFICATION OR WARNING OR ANY JUDGEMENT .}} \times 10\% = \text{PENALTY PER DAY}$
<p>27-1 General Conditions of the Contract</p>	<p>The max limit of the delay penalties amount [ 10] % of the final contract amount.</p>
<p>28-3 General Conditions Of the Contract</p>	<p>Commodities guarantee validity period is ( <b>360</b> ) days from the date of receiving and acceptance of goods. For the guarantee purpose, the place of final destinations shall be: CIP to SRC warehouses in shuaiba</p>
<p>28-5 General Conditions of the Contract</p>	<p>Period of repair or replacement shall be 60 work days Without any additional cost</p>
<p>32 General Conditions of the Contract</p>	<p>With the exception of Force Majeure event, it is confirmed and agreed by the supplier that the prevailing circumstances in Iraq do not in any way constitute an impediment for the implementation by the supplier of his obligations under this Contract</p>

### Equation of Prices Adjustment(N/A)

The prices are adjusted in accordance with the equation motioned later based on Para 15-1 of the General Conditions of Contract. The adopted prices for the payment of the provider's dues according to the contract are subject to adjustment during the implementation of the contract in accordance with the changes in the cost components of workforce and materials, according to the following equation:

$$M2= M1 (A+B P2/P1 + C L2/L1 - M1)$$

Noting that:  $A+B+C=1$

M2: Increase in price realized to the provider

M1: Price according to the contract

A: Fixed factor represents profit margin and administrative charges according to the contract

B: Fixed factor represents the percentage of workforce component in the price value

C: Factor represents materials component in the prices value

P1, P2: Guide to the fees of the workforce in the industry sector concerned of producing these commodities in the country of origin in base date and the date according to which the prices were modified

L1, L2: Guide to the fees of the materials in base date and the date according to which the prices were modified in the country of origin.

The Constants A, B, and C are determined by the buyer as shown below:

A: (insert the value of Constant A)

B: (insert the value of Constant B)

C: (insert the value of Constant C)

The provider shall determine the sources that will be adopted in specifying workforce fees and materials prices upon signing the contract in his bid.

Base Date: it is the date that precedes the final date of submitting the bid with thirty days

Price Modification Date: (insert the number of weeks) the weeks that precede the shipment date (represents the mid period of manufacturing)

Both parties shall agree based on this equation, according to the following:

- 1- No review shall be done and prices adjustment for the commodities provided after the end of timings specified for supplying according to the contract, unless mentioned in the agreement of commodities supplying period extension for the commodities that were late supplied for reasons resulting from the provider. The buyer has the right to decrease the commodities and services prices related thereto as a result of equation application.

- 2- If the currency of the prices mentioned in the contract was different from that of the country of origin concerning the fees of workers and materials, the correction factor shall be used to ensure prices adjustment accurately, and the correction factor includes the proportion resulted from dividing exchange rate between the two currencies in the base date and adjustment date.
- 3- The price adjustment does not include the quantities represented by the value of advance payment .

**Section Nine: Forms and Contracts for  
The Contracts of Supplying Commodities**

**Table of Forms**

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## Guiding Form

### 1- Text of Contract

[The winning Bidder shall fill out this form as per the instructions listed hereafter]

This Contract is entered into on this day [insert number] of [insert month], [insert year]

Between

(1) [Insert buyer's full name], [insert description of legal entity, such as a certain department of a certain Ministry of a certain Government], [insert buyer's country], or a company incorporated according to the law of [insert buyer's country], headquartered in [insert buyer's address], hereafter referred to as the "Buyer".

and

(2) [Insert supplier's name], a company or organization incorporated according to the law of [insert supplier's country], headquartered in [insert supplier's address], hereafter referred to as the "Supplier".

Whereas the Buyer announced a tender for the supply of certain commodities and assistance services [insert short description of the commodities and services], and accepted the Bid submitted by the Supplier for the provision of such commodities and services for [insert contract price in writing and in figures], referred to hereafter as the "Contract Price".

#### **This Agreement testifies the following:**

- 1- Words and expressions mentioned in this Agreement shall have the same meanings given in the Contract Conditions referred to hereafter.
- 2- The Following Documents constitute the Contract between the buyer and the Supplier, and shall be read and construed as an integral part of the Contract:
  - a- This Contract Agreement
  - b- Special Conditions of the Contract
  - c- General Conditions of the Contract
  - d- Technical Requirements (to include the List of Requirements and Technical Specification)
  - e- Supplier's Bid and the original Price Table
  - f- Buyer's Acceptance Letter.
  - g- [add here any other documents]
- 3- This Contract supersedes all other Contract Documents. In the event there's contradiction or nonconformance between the Contract Documents, they shall have precedence according to their order listed above.
- 4- For the payments to be made by the buyer to the Supplier as stated hereafter, the Supplier shall first provide the Buyer with the Commodities and Services and to rectify faults according to the provisions of this Contract.
- 5- The Buyer shall pay the buyer, for its provisions of certain Commodities and Services and rectify the faults therein if required, the Contract Price or any other amount

payable according to the provisions of the Contract, at the time and on the method stipulated in the Contract.

The Parties to this Contract Agreement shall execute it according to the law of Iraq on the date stated above.

For and on behalf of the Buyer

Signature: [insert signature]

Title: [insert title or any other suitable capacity]

In presence of: [insert identification of witness]

For and on behalf of the Supplier

Signature: [insert signature]

Title: [insert title or any other suitable capacity]

In presence of: [insert identification of witness]

## 2. Good Performance Guarantee

[The bank shall fill out this form by the request of the winning bidder according to the instructions mentioned between the brackets]

Date: [Insert date (day, month, year) to deliver the bid]

**Name and number of the national competitive bid:** [Insert name and number of the bid]

[Insert the name of bank and branch address or issuing

office] **Beneficiary:** [Insert the official name and address of

the buyer] **Good Performance Guarantee No.:** [Insert the

number]

We have been notified that [Insert the name of supplier] (called hereinafter as "the Supplier") has concluded the contract No. [Insert Bid Number] dated with you, to supply [Insert the description of the commodities and services related thereto] (called hereinafter as "the Contract")

Accordingly, we understand, according to contract conditions, that the **good** performance guarantee is required.

At the request of the supplier, we, commit to pay any amount(s) not exceeding in total the amount of [Insert the amount in figures] ([Insert the amount in writing])<sup>8</sup> Iraqi Dinars, immediately after we have received from you the first written request accompanied by an affidavit stating that the supplier has violated his obligation(s) under the contract, without the need from you to confirm or clarify the base of your request or the amount specified therein.

This guarantee shall expire after before [insert number] days of [insert month] [insert year]<sup>9</sup>;

therefore, any payment order, under this guarantee, we shall receive it on that date or before.

This guarantee is subject to the unified laws of claiming guarantees, and the publications of the International Chamber of Commerce under No. 458, excluding sub Paragraph (2) of the sub- article 20(A) which has been deleted herein.

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[The signature(s) of the authorized representative(s) of the bank]

<sup>8</sup> The bank will insert the amount specified in the special conditions of the contract in the unit that was described in the special conditions of the contract.

<sup>9</sup> The dates specified according to Para (17-4) of the general conditions of the contract, taking into consideration any obligations in the guarantee by the supplier according to Para (15-2) of the general conditions of the contract that are required to be provided in a partial **good** performance guarantee. The buyer shall be aware that in case of extending the expiry date of contract, the buyer will need to request an extension for this guarantee from the guarantor. The request shall be in writing and before the expiry date prescribed in the guarantee. upon the preparation of this guarantee, the buyer may deem proper to add the following text to the form, at the end of the Paragraph before the last: " The guarantor accepts to extend

this guarantee for one time and for a period not exceeding [six months] [one year], in response to the written request of the buyer for such extension, provided that such request shall be submitted to the guarantor before the expiry of guarantee".

### **3. Bank Guarantee for Advance Payment**

[The bank shall fill out this form by the request of the winning bidder according to the instructions mentioned between the brackets]

Date: [Insert date (day, month, year) to deliver the bid]

**Name and number of the national competitive bid:** [Insert name and number of the bid]

[Letterhead of the bank]

**Beneficiary:** [Insert the official name and address of the buyer]

**Date:** [Insert the date]

**Advance Payment Guarantee:** [Insert the number]

We, [insert the official name and address of the bank] have been notified that [Insert full name and address of the supplier] (hereinafter called as "The Supplier") has entered into the bid contract No. [Insert Bid No.], dated with you [insert date of agreement], to execute [Insert types of commodities required to be delivered] (hereinafter called as "The Contract")

We understand, according to contract conditions, that the advance payment shall be granted against the advance payment guarantee.

At the request of the supplier, we, commit to pay any amount(s) not exceeding in total the amount of [Insert the amount in figures] ([Insert the amount in writing])<sup>10</sup>, immediately after we have received from you the first written request accompanied by an affidavit stating that the supplier has violated his obligation under the contract, because the supplier has used the advance payment for purposes other than delivering the commodities .

This guarantee stipulates, in order to pay up any claim or payment under this guarantee, that the supplier shall have received the aforementioned advance payment to his account [Insert the number] in [Insert the name and address of bank].

The validity of the guarantee shall continue as from the date of receiving the advance payment by the supplier under the contract until [insert the date].<sup>11</sup>

This guarantee is subject to the unified laws of claiming guarantees, and the publications of the International Chamber of Commerce under No. 458.

[The signature(s) of the authorized representative(s) of the bank]

<sup>10</sup> The guarantor will insert an amount that represents the advance payment amount.

<sup>11</sup> Enter the date affixed in the delivery schedule in the contract. The buyer shall be aware that in case of extending the expiry date of contract, the buyer will need to request an extension for this guarantee from the guarantor. The request shall be in

writing and before the expiry date prescribed in the guarantee. upon the preparation of this guarantee, the buyer may deem

proper to add the following text to the form, at the end of the Paragraph before the last: " The guarantor accepts to extend this guarantee for one time and for a period not exceeding [six months] [one year], in response to the written request of the buyer for such extension, provided that such request shall be submitted to the guarantor before the expiry of guarantee".