



**East African Portland  
Cement PLC**

*Holding life Together*

**TENDER DOCUMENT**

**FOR**

**SUPPLY AND REPLACEMENT OF SERVER INFRASTRUCTURE AND DATA MIGRATION.**

**EAPC PLC/OT/242/2021**

**JUNE 2021**

**CLOSING DATE: .....MONDAY 12TH JULY 2021**

**CLOSING TIME: ..... 12.00 Noon**

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**SECTION I**

**- INVITATION TO TENDER**

**1. SUPPLY AND REPLACEMENT OF SERVER INFRASTRUCTURE AND DATA MIGRATION**

- 1.1. The East African Portland Cement PLC, one of the leading Cement manufacturing Companies in Kenya, invites sealed bids from for **SUPPLY AND REPLACEMENT OF SERVER INFRASTRUCTURE AND DATA MIGRATION.– TENDER # EAPC PLC/OT/242/2021**. The detailed breakdown of the requirements can be obtained in the schedule of requirements/price schedule stipulated in this bid document.
- 1.2. Completed Bid documents are to be enclosed in One (1) outer plain sealed Envelope ( **ENVELOPE A ( Technical Offer and ENVELOPE B ( Financial Offer )** ) CLEARLY MARKED with Bid reference number AND THE BIDDERS DETAILS and be deposited in the Tender Box located at the Customer Care office next the main entrance, East African Portland Cement Company Ltd, Off Namanga Road, Athi River, PO Box 20-00204, Athi River, Kenya; **Tel:+254-709 855 000** so as to be received **on or before 12.00 noon MONDAY 12TH JULY,2021**
- 1.3. Prices quoted shall clearly show if all taxes are exclusive or inclusive; and be in Kenya Shillings. They shall remain valid for the entire contract period.
- 1.4. Bids will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at East African Portland Cement PLC customer care office.
- 1.5. The East African Portland Cement PLC reserves the right to accept /reject all or part of the Bids and is bound to give reasons for doing so.

**For: The Managing Director**

**The East African Portland Cement Company Plc  
Off Namanga Road, P O Box 20-00204  
Athi River, Kenya.  
Tel. +254-0709-000**

**Ethics hotline: 0800 722 622**

**E-mail: [info@eapcc.co.ke](mailto:info@eapcc.co.ke), Website: [www.eastafricanportland.com](http://www.eastafricanportland.com)**

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## **SECTION II - INSTRUCTIONS TO TENDERERS**

### **2.1 Eligible tenderers**

- 2.1.1. This Invitation to tender is open to all tenderers eligible as described in the instructions to tenderers. Successful tenderers shall provide the services for the stipulated duration from the date of commencement (hereinafter referred to as the term) specified in the tender documents.
- 2.1.2. EAPC PLC 's employees, committee members, board members and their relative (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 130 of the Act.
- 2.1.3. Tenderers shall provide the qualification information statement that the tenderer (including all members, of a joint venture and subcontractors) is not associated, or have been associated in the past, directly or indirectly, with a firm or any of its affiliates which have been engaged by EAPC PLC to provide consulting services for the preparation of the design, specifications, and other documents to be used for the procurement of the services under this Invitation for tenders.
- 2.1.4. Tenderers involved in corrupt or fraudulent practices or debarred from participating in public procurement shall not be eligible.

### **2.2 Cost of tendering**

- 2.2.1 The Tenderer shall bear all costs associated with the preparation and submission of its tender, and EAPC PLC , will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.

### **2.3 Contents of tender documents**

- 2.3.1. The tender document comprises of the documents listed below and addenda issued in accordance with clause 5 of these instructions to tenders
  - i. Instructions to Tenderers
  - ii. General Conditions of Contract
  - iii. Special Conditions of Contract
  - iv. Schedule of Requirements
  - v. Technical Specifications
  - vi. Form of Tenders
  - vii. Price Schedules
  - viii. Contract Form
  - ix. Confidential Business Questionnaire Form
  - x. Tender Security Form
- 2.3.2. The Tenderer is expected to examine all instructions, forms, terms, and specifications in the tender documents. Failure to furnish all information required by the tender documents or to submit a tender not substantially responsive to the tender documents in every respect will be at the tenderers risk and may result in the rejection of its tender.

## **2.4 Clarification of Documents**

- 2.4.1. A prospective candidate making inquiries of the tender document may notify EAPC PLC in writing or by post, fax or email at the entity's address indicated in the Invitation for tenders. EAPC PLC will respond in writing to any request for clarification of the tender documents, which it receives no later than four (4) days prior to the deadline for the submission of tenders, prescribed by EAPC PLC . Written copies of the Procuring entities response (including an explanation of the query but without identifying the source of inquiry) will be sent to all prospective tenderers who have received the tender documents”
- 2.4.2. EAPC PLC shall reply to any clarifications sought by the tenderer within 3 days of receiving the request to enable the tenderer to make timely submission of its tender

## **2.5 Amendment of documents**

- 2.5.1. At any time prior to the deadline for submission of tenders, EAPC PLC , for any reason, whether at its own initiative or in response to a clarification requested by a prospective tenderer, may modify the tender documents by issuing an addendum.
- 2.5.2. All prospective tenderers who have obtained the tender documents will be notified of the amendment by post, fax or email and such amendment will be binding on them.
- 2.5.3. In order to allow prospective tenderers reasonable time in which to take the amendment into account in preparing their tenders, EAPC PLC , at its discretion, may extend the deadline for the submission of tenders.

## **2.6 Language of tender**

- 2.6.1. The tender prepared by the tenderer, as well as all correspondence and documents relating to the tender exchanged by the tenderer and EAPC PLC , shall be written in English language. Any printed literature furnished by the tenderer may be written in another language provided they are accompanied by an accurate English translation of the relevant passages in which case, for purposes of interpretation of the tender, the English translation shall govern.

## **2.7 Documents Comprising the Tender**

The tender prepared by the tenderer shall comprise the following components:

- (a) A Tender Form and a Price Schedule completed in accordance with 2.8,2. 9, 2.10 below.
- (b) Documentary evidence established in accordance with Clause 2.11 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) Tender security furnished is in accordance with Clause 2.12 (d) on the confidential business questionnaire.

## **2.8 Form of Tender**

- 2.8.1 The tenderers shall complete the Form of Tender and the appropriate Price Schedule furnished in the tender documents, indicating the services to be performed.

## **2.9 Tender Prices**

- 2.9.1 The tenderer shall indicate on the Price schedule the unit prices where applicable and total tender prices of the services it proposes to provide under the contract.
- 2.9.2 Prices indicated on the Price Schedule shall be the cost of the services quoted including all customs duties and VAT and other taxes payable:
- 2.9.3 Prices quoted by the tenderer shall remain fixed during the term of the contract unless otherwise agreed by the parties. A tender submitted with an adjustable price quotation will be treated as non-responsive and will be rejected, pursuant to paragraph 2.22.
- 2.9.4 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)
- 2.9.5 Where contract price variation is allowed, the quantity variation of goods and services shall not exceed fifteen per cent of the original contract quantity, the cumulative value of all contract variation do not result in an increment of the total contract price by more than twenty five percent of the original contract price.
- 2.9.6 Price variation requests shall be processed by EAPC PLC within 30 days of receiving the request.

## **2.10 Tender Currencies**

- 2.10.1 Prices shall be quoted in Kenya Shillings unless otherwise specified in the appendix to in Instructions to Tenderers

## **2.11 Tenderers Eligibility and Qualifications.**

- 2.11.1 Pursuant to Clause 2.1 the tenderer shall furnish, as part of its tender, documents establishing the tenderers eligibility to tender and its qualifications to perform the contract if its tender is accepted.
- 2.11.2 The documentary evidence of the tenderers qualifications to perform the contract if its tender is accepted shall establish to EAPC PLC 's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

## **2.12 Tender Security- Not applicable for this tender**

- 2.12.1 The tenderer shall furnish, as part of its tender, a tender security for the amount and form specified in the Invitation to tender.
- 2.12.2 The tender security shall be in the amount not exceeding 2 per cent of the tender price.
- 2.12.3 The tender security is required to protect EAPC PLC against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.8
- 2.12.4 The tender security shall be denominated in a Kenya Shillings or in another

freely convertible currency and shall be in the form of:

a) A bank guarantee.

2.12.5 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.4 will be rejected by EAPC PLC as non-responsive, pursuant to paragraph 2.20

2.12.6 Unsuccessful tenderer's security will be discharged or returned as promptly as possible but not later than thirty (30) days after the expiration of the period of tender validity prescribed by EAPC PLC .

2.12.7 The successful tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.26, and furnishing the performance security, pursuant to paragraph 2.27.

2.12.8 The tender security may be forfeited:

If a tenderer withdraws its tender during the period of tender validity specified by EAPC PLC on the Tender Form;

**or**

a) In the case of a successful tenderer, *if* the tenderer fails:

i. to sign the contract in accordance with paragraph 2.26

**or**

ii. to furnish performance security in accordance with paragraph 2.27

If the tenderer rejects, correction of an error in the tender.

### **2.13 Validity of Tenders**

2.13.1 Tenders shall remain valid for 120 days or as specified in the invitation to tender after date of tender opening prescribed by EAPC PLC , pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by EAPC PLC as non-responsive.

2.13.2 In exceptional circumstances, EAPC PLC may solicit the Tenderer's consent to an extension of the period of validity. The request and the responses thereto shall be made in writing. The tender security provided under paragraph 2.12 shall also be suitably extended. A tenderer may refuse the request without forfeiting its tender security. A tenderer granting the request will not be required nor permitted to modify its tender.

### **2.14 Format and Signing of Tender**

2.14.1 The tender is a two envelope tender and the tenderer shall prepare Two envelope inside one outer envelope. The Inner envelopes shall contain **ENVELOPE A – TECHNICAL ENVELOPE ( ENVELOPE A ) and FINANCIAL OFFER ENVELOPE ( ENVELOPE B )**.

2.14.2 The TECHNICAL AND FINANCIAL ENVELOPE ( A & B ) shall be typed or written in indelible ink and shall be signed by the tenderer or a person or persons duly authorized to bind



the tenderer to the contract. All pages of the tender, except for unamended printed literature, shall be initialed by the person or persons signing the tender.

- 2.14.3 The tender shall have no interlineations, erasures, or overwriting except as necessary to correct errors made by the tenderer, in which case such corrections shall be initialed by the person or persons signing the tender.

**2.15 Sealing and Marking of Tenders- The Tenderer's shall submit proposals for Technical and – Commercial envelope separately and addressed to**

- (a) the EAPC PLC at the address given in the invitation to tender and  
(b) bear, tender number and name in the invitation to tender and the words: **“DO NOT OPEN BEFORE MONDAY, 12TH JULY 2021., AT 12.Noon.”**

- 2.15.1 Both envelopes shall also indicate the name and address of the tenderer to enable the tender to be returned unopened in case it is declared “late” or unsuccessful

- 2.15.2 If the outer envelope is not sealed and marked as required by paragraph 2.15.1, the EAPC PLC will assume no responsibility for the tender's misplacement or premature opening.

- 2.15.3 Bidders' names, Bid modifications or withdrawals, Bid prices, discounts and such other details as the EAPC PLC , at its discretion, may consider appropriate, **will be announced at the opening.**

**2.16 Deadline for Submission of Tenders**

- 2.16.1 T e n d e r s must be received by the EAPC PLC at the address specified under paragraph 2.15 not later than **12.00 noon on MONDAY 12TH JULY,2021**

- 2.16.2 T h e EAPC PLC may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.5, in which case all rights and obligations of the EAPC PLC and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

- 2.16.3 Bulky tenders which will not fit in the tender box shall be received by the EAPC PLC as provided for in the appendix.

## **2.17 Modification and withdrawal of tenders**

- 2.17.1 The tenderer may modify or withdraw its tender after the tender's submission, provided that written notice of the modification, including substitution or withdrawal of the tender's is received by EAPC PLC prior to the deadline prescribed for the submission of tenders.
- 2.17.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 2.15. A withdrawal notice may also be sent by cable, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.
- 2.17.3 No tender may be modified after the deadline for submission of tenders.
- 2.17.4 No tender may be withdrawn in the interval between the deadline for submission of tenders and the expiration of the period of tender validity specified by the tenderer on the Tender Form. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.8.
- 2.17.5 EAPC PLC may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.17.6 EAPC PLC shall give prompt notice of the termination to the tenderers and on request give its reasons for termination within 14 days of receiving the request from any tenderer.

## **2.18 Opening of Tenders**

### **Opening of Tenders**

- 2.18.1 The EAPC PLC will open all the tenderers tender – **ENVELOPE A – TECHNICAL OFFER** in the presence of tenderers representatives who choose to attend, at **12.00 noon, MONDAY 12TH JULY, 2021** and in the location specified in the invitation to tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.18.3 **ENVELOPE B – FINANCIAL OFFER**, shall be returned unopened at the Tender Box and shall be opened by a appointed committee after Technical Evaluation is completed. Envelope B for the unsuccessful bidders shall be returned unopened to the bidders who choose to collect.
- 2.18.4 The EAPC PLC will prepare minutes of the tender opening which will be submitted to the tenderers that signed the tender opening register and will have made the request.

## **2.19 Clarification of tenders**

- 2.19.1 To assist in the examination, evaluation and comparison of tenders EAPC PLC may at its discretion, ask the tenderer for a clarification of its tender. The request for clarification and the response shall be in writing, and no change in the prices or substance shall be sought, offered, or permitted.
- 2.19.2 Any effort by the tenderer to influence EAPC PLC in EAPC PLC's tender evaluation, tender comparison or contract award decisions may result in the rejection of the tenderers tender.

## **2.20 Preliminary Examination and Responsiveness**

- 2.20.1 EAPC PLC will examine the tenders to determine whether they are complete, whether any computational errors have been made, whether required securities have been furnished whether the documents have been properly signed, and whether the tenders are generally in order.
- 2.20.2 Arithmetical errors will be rectified on the following basis. If there is a discrepancy between the unit price and the total price that is obtained by multiplying the unit price and quantity, the unit price shall prevail, and the total price shall be corrected. If the candidate does not accept the correction of the errors, its tender will be rejected, and its tender security may be forfeited. If there is a discrepancy between words and figures, the amount in words will prevail.
- 2.20.3 EAPC PLC may waive any minor informality or nonconformity or irregularity in a tender which does not constitute a material deviation, provided such waiver does not prejudice or affect the relative ranking of any tenderer.
- 2.20.4 Prior to the detailed evaluation, pursuant to paragraph 22, the Procuring entity will determine the substantial responsiveness of each tender to the tender documents. For purposes of these paragraphs, a substantially responsive tender is one which conforms to all the terms and conditions of the tender documents without material deviations. EAPC PLC 's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.
- 2.20.5 If a tender is not substantially responsive, it will be rejected by EAPC PLC and may not subsequently be made responsive by the tenderer by correction of the nonconformity.

## **2.21 Conversion to a single currency**

- 2.21.1 Where other currencies are used, EAPC PLC will convert those currencies to Kenya shillings using the selling exchange rate on the date of tender closing provided by the central bank of Kenya.

## **2.22 Evaluation and comparison of tenders.**

- 2.22.1 EAPC PLC will evaluate and compare the tenders which have been determined to be substantially responsive, pursuant to paragraph 2.20
- 2.22.2 The comparison shall be of the price including all costs as well as duties and taxes payable on all the materials to be used in the provision of the services.
- 2.22.3 EAPC PLC 's evaluation of a tender will take into account, in addition to the tender price, the following factors, in the manner and to the extent indicated in paragraph 2.22.4 and in the technical specifications:
- a) Operational plan proposed in the tender;
  - b) deviations in payment schedule from that specified in the Special Conditions of Contract;

2.22.4 Pursuant to paragraph 22.3 the following evaluation methods will be applied: (a)

***Operational Plan.***

EAPC PLC requires that the services under the Invitation for Tenders shall be performed at the time specified in the Schedule of Requirements. Tenders offering to perform longer than EAPC PLC 's required delivery time will be treated as non- responsive and rejected.

***(b) Deviation in payment schedule.***

Tenderers shall state their tender price for the payment on a schedule outlined in the special conditions of contract. Tenders will be evaluated on the basis of this base price. Tenderers are, however, permitted to state an alternative payment schedule and indicate the reduction in tender price they wish to offer for such alternative payment schedule. EAPC PLC may consider the alternative payment schedule offered by the selected tenderer.

2.22.5 The tender evaluation committee shall evaluate the tender within 30 days from the date of opening the tender.

2.22.6 To qualify for contract awards, the tenderer shall have the following:-

- (a) Necessary qualifications, capability experience, services, equipment and facilities to provide what is being procured.
- (b) Legal capacity to enter into a contract for procurement
- (c) Shall not be insolvent, in receivership, bankrupt or in the process of being wound up and is not the subject of legal proceedings relating to the foregoing
- (d) Shall not be debarred from participating in public procurement.

**2.23. Contacting EAPC PLC**

2.23.1 Subject to paragraph 2.19, no tenderer shall contact EAPC PLC on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

2.23.2 Any effort by a tenderer to influence EAPC PLC in its decisions on tender evaluation, tender comparison or contract award may result in the rejection of the tenderers tender.

**2.24 Award of Contract**

a) **Post qualification**

2.24.1 In the absence of pre-qualification, EAPC PLC will determine to its satisfaction whether the tenderer that is selected as having submitted the lowest evaluated responsive tender is qualified to perform the contract satisfactorily.

2.24.2 The determination will take into account the tenderer's financial and technical capabilities. It will be based upon an examination of the documentary evidence of the tenderers qualifications submitted by the tenderer, pursuant to paragraph 2.1.2, as well as such other information as EAPC PLC deems necessary and appropriate.

2.24.3 An affirmative determination will be a prerequisite for award of the contract to the tenderer. A negative determination will result in rejection of the Tenderer's tender, in which event EAPC PLC will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

**b) Award Criteria**

2.24.4 Subject to paragraph 2.22 EAPC PLC will award the contract to the successful tenderer whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated tender, provided further that the tenderer is determined to be qualified to perform the contract satisfactorily.

2.24.5 EAPC PLC reserves the right to accept or reject any tender and to annul the tendering process and reject all tenders at any time prior to contract award, without thereby incurring any liability to the affected tenderer or tenderers or any obligation to inform the affected tenderer or tenderers of the grounds for EAPC PLC's action. If EAPC PLC determines that none of the tenderers is responsive; EAPC PLC shall notify each tenderer who submitted a tender.

2.24.6 A tenderer who gives false information in the tender document about its qualification or who refuses to enter into a contract after notification of contract award shall be considered for debarment from participating in future public procurement.

**2.25 Notification of award**

2.25.1 Prior to the expiration of the period of tender validity, EAPC PLC will notify the successful tenderer in writing that its tender has been accepted.

2.25.2 The notification of award will signify the formation of the Contract subject to the signing of the contract between the tenderer and EAPC PLC pursuant to clause 2.26. Simultaneously the other tenderers shall be notified that their tenders have not been successful.

2.25.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 27, EAPC PLC will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

**2.26 Signing of Contract**

2.26.1 At the same time as EAPC PLC notifies the successful tenderer that its tender has been accepted, EAPC PLC will simultaneously inform the other tenderers that their tenders have not been successful.

2.26.2 Within fourteen (14) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to EAPC PLC .

2.26.3 The parties to the contract shall have it signed within 30 days from the date of notification of contract award unless there is an administrative review request.

## **2.27 Performance Security**

2.27.1 Fourteen (14) days of the receipt of notification of award from EAPC PLC , the successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in the Performance Security Form provided in the tender documents, or in another form acceptable to EAPC PLC .

2.27.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.26 or paragraph 2.27.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event EAPC PLC may make the award to the next lowest evaluated or call for new tenders.

## **2.28 Corrupt or Fraudulent Practices**

2.28.1 EAPC PLC requires that tenderers observe the highest standard of ethics during the procurement process and execution of contracts. A tenderer shall sign a declaration that he has not and will not be involved in corrupt or fraudulent practices.

2.28.2 EAPC PLC will reject a proposal for award if it determines that the tenderer recommended for award has engaged in corrupt or fraudulent practices in competing for the contract in question;

2.28.3 Further, a tenderer who is found to have indulged in corrupt or fraudulent practices risks being debarred from participating in Public Procurement in Kenya.

## APPENDIX TO INSTRUCTIONS TO THE TENDERERS

The following information for procurement of services shall complement or amend the provisions of the instructions to tenderers. Wherever there is a conflict between the provisions of the instructions to tenderers and the provisions of the appendix, the provisions of the appendix herein shall prevail over those of the instructions to tenderers.

Instructions to tenderers	Particulars of appendix to instructions to tenderers
2.2.2	Price to be charged for tender documents- <b>Free of charge.</b>
2.10	Particulars of other currencies allowed. <b>None</b>
2.12.2	Particulars of tender security if applicable- <b>Not applicable for this tender</b>
2.12.4	Form of Tender Security: <b>Security Bid Bond for Kes.1000,000.00 (One Million Shillings Only)</b>
2.13	Validity of Tenders: <b>Tenders Shall remain for the Contract award period until the full assignment is completed after date of tender opening</b>
2.16.3	Bulky tenders which do not fit in the tender box shall be delivered to the Procurement Office and bidders will sign off the delivery book.
2.20.1	<p>Tenderers are required to submit copies of the following <b><u>MANDATORY STATUTORY DOCUMENTS</u></b> which will be used during Preliminary Examination to determine responsiveness:</p> <ol style="list-style-type: none"> <li><b>1) Copy of business registration</b></li> <li><b>2) Duly filled confidential business questionnaire</b></li> </ol> <p><i>(Refer TO page 32)</i></p> <p><b>The above requirements are not mandatory for the prequalified firms.</b></p>

Instructions to tenderers	Particulars of appendix to instructions to
2.22	<p>Evaluation and comparison of Tenders: <b>The following evaluation criteria shall be applied</b>  <b>Notwithstanding any other requirement in the tender documents.</b></p> <p><u>Selection</u>  <u>Process</u></p> <p>Below is a description of the evaluation steps that will be adopted.</p> <p><b><u>STEP 1: Preliminary evaluation</u></b></p> <p>This will be an elimination stage which will be done as per paragraph 2.20.1 above.</p> <p><b><u>STEP 2: Technical evaluation</u></b></p> <p>Only Tenderers who score 70% and above will be considered to be technically responsive and therefore proceed to financial evaluation</p>
2.24 (a)	<p>Particulars of post – qualification if applicable. <b>East African Portland Cement Plc may carry out post qualification and inspect the premises or contact listed clients to confirm details</b></p>
2.24.4	<p>Award Criteria: <b>Award will be made to the lowest evaluated bidder in financial</b></p>
2.27	<p>Particulars of performance security if applicable. <b>10 % of the contract sum</b></p>



**SECTION III**

**- GENERAL CONDITIONS OF CONTRACT**

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## **SECTION III**

## **- GENERAL CONDITIONS OF CONTRACT**

### **3.1 Definitions**

In this contract the following terms shall be interpreted as indicated:

- a) "The contract" means the agreement entered into between EAPC PLC and the tenderer as recorded in the Contract Form signed by the parties, including all attachments and appendices thereto and all documents incorporated by reference therein.
- b) "The Contract Price" means the price payable to the tenderer under the Contract for the full and proper performance of its contractual obligations.
- c) "The services" means services to be provided by the contractor including materials and incidentals which the tenderer is required to provide to EAPC PLC under the Contract.
- d) "EAPC PLC" means the organization sourcing for the services under this contract
- e) "The contractor" means the individual or firm providing the services  
under this "GCC" means general conditions of contract contained in this  
section
- f) "SCC" means the special conditions of contract
- g) "day" means calendar day.

### **3.2 Application**

- 3.2.1 These General Conditions shall apply to the extent that they are not superseded by provisions of other part of contract.

### **3.3 Standards**

- 3.3.1 The services provided under this Contract shall conform to the 7 standards mentioned in the Schedule of requirements

### **3.4 Patent Right's**

- 3.4.1 The tenderer shall indemnify EAPC PLC against all third-party claims of infringement of patent, trademark, or industrial design rights arising from use of the services under the contract or any part thereof.

### **3.5 Performance Security**

- 3.5.1 Within fourteen (14) days of receipt of the notification of contract award, the successful tenderer shall furnish to EAPC PLC the performance security where applicable in the amount specified in Special Conditions of Contract.
- 3.5.2 The proceeds of the performance security shall be payable to EAPC PLC as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 3.5.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to EAPC PLC and shall be in the form of:
  - a) A bank guarantee.
- 3.5.4 The performance security will be discharged by EAPC PLC and returned to the candidate not later than thirty (30) days following the date of completion of the tenderer's performance of obligations under the contract, including any warranty obligations under the contract.

### **3.6 Inspections and Tests**

- 3.6.1 EAPC PLC or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. EAPC PLC shall notify the tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 3.6.2 The inspections and tests may be conducted on the premises of the tenderer or its subcontractor(s). If conducted on the premises of the tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to drawings and production data, shall be furnished to the inspectors at no charge to EAPC PLC .
- 3.6.3 Should any inspected or tested services fail to conform to the Specifications, EAPC PLC may reject the services, and the tenderer shall either replace the rejected services or make alterations necessary to meet specification requirements free of cost to EAPC PLC .
- 3.6.4 Nothing in paragraph 3.7 shall in any way release the tenderer from any warranty or other obligations under this Contract.

### **3.7 Payment**

- 3.7.1 The method and conditions of payment to be made to the tenderer under this Contract shall be specified in SCC

### **3.8 Prices**

3.8.1 Prices charged by the contractor for services performed under the Contract shall not, with the exception of any Price adjustments authorized in SCC, vary from the prices by the tenderer in its tender or in EAPC PLC 's request for tender validity extension as the case may be. No variation in or modification to the terms of the contract shall be made except by written amendment signed by the parties.

### **3.9 Assignment**

3.9.1 The tenderer shall not assign, in whole or in part, its obligations to perform under this contract, except with EAPC PLC 's prior written consent.

### **3.10 Termination for Default**

- 3.10.1 EAPC PLC may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the tenderer, terminate this Contract in whole or in part:
- a. if the tenderer fails to provide any or all of the services within the period(s) specified in the Contract, or within any extension thereof granted by EAPC PLC .
  - b. if the tenderer fails to perform any other obligation(s) under the Contract.
  - c. if the tenderer, in the judgment of EAPC PLC has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- 3.10.2 In the event EAPC PLC terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, services similar to those undelivered, and the tenderer shall be liable to EAPC PLC for any excess costs for such similar services.

### **3.11 Termination of insolvency**

3.11.1 EAPC PLC may at the anytime terminate the contract by giving written notice to the contractor if the contractor becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the contractor, provided that such termination will not produce or affect any right of action or remedy, which has accrued or will accrue thereafter to EAPC PLC .

### **3.12 Termination for convenience**

- 3.13.1 EAPC PLC by written notice sent to the contractor may terminate the contract in whole or in part, at any time for its convenience. The notice of termination shall specify that the termination is for the procuring entity convenience, the extent to which performance of the contractor of the contract is terminated and the date on which such termination becomes effective.
- 3.13.2 For the remaining part of the contract after termination EAPC PLC may elect to cancel the services and pay to the contractor on agreed amount for partially completed services.

### **3.13 Resolution of disputes**

3.13.1 EAPC PLC 's and the contractor shall make every effort to resolve amicably by direct informal negotiations any disagreement or dispute arising between them under or in connection with the contract.

3.13.2 If after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute either party may require that the dispute be referred for resolution to the formal mechanisms specified in the SCC.

### **3.14 Governing Language**

3.14.1 The contract shall be written in the English language. All correspondence and other documents pertaining to the contract, which are exchanged by the parties, shall be written in the same language.

### **3.15 Force Majeure**

3.15.1 The contractor shall not be liable *for* forfeiture of its performance security, or termination for default if and to the extent that its delay in performance or other failure to perform its obligations under the Contract is the result of an event of Force Majeure.

### **3.16 Applicable Law.**

3.16.1 The contract shall be interpreted in accordance with the laws of Kenya unless otherwise specified in the SCC

### **3.17 Notices**

3.17.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or by fax or E-mail and confirmed in writing to the other party's address specified in the SCC

3.17.2 A notice shall be effective when delivered or on the notices effective date, whichever is later.

**SECTION IV****- SPECIAL CONDITIONS OF CONTRACT**

- 4.1 Special conditions of contract shall supplement the general conditions of contract, wherever there is a conflict between the GCC and the SCC, the provisions of the SCC herein shall prevail over those in the GCC.
- 4.2 Special conditions of contract with reference to the general conditions of contract.

<b>General conditions of contract reference</b>	<b>Special conditions of contract</b>
3.5	Specify performance security if applicable: <b>N/A</b>
3.7	Specify method Payments. <b>Payment shall be made within 45 days of submission of invoice OR as per Agreement.</b>
3.8	Specify price adjustments allowed. <b>None</b>
3.14	Specify resolution of disputes. <b>Disputes to be settled as per the Arbitration Laws of Kenya.</b>
3.16	Specify applicable law. <b>Laws of Kenya</b>

**SECTION V - SCHEDULE OF REQUIREMENTS**

**GENERAL**

1. These specification describes the basic requirements of goods and works required. Bidders are requested to submit their offers with the detailed specifications, drawings, catalogues, etc. for the products they intend to supply.
2. Bidders must indicate on the specifications sheets whether the goods / item offered comply with each specified requirement.
3. All the specifications and capacities of the material to be supplied shall not be less than those required in these specifications/requirements. Deviations from the basic requirements, if any, shall be explained in details in writing with the offer, with supporting data such as calculation sheets, etc. EAPC PLC reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.

**SUPPLY AND REPLACEMENT OF SEVER INFRASTRUCTURE AND DATA MIGRATION.**

**REQUIREMENT**

#	ITEM DESCRIPTION	QTY
1	Dell Storage and Servers to replace the old equipment	1 (ONE)
2	VMware License and Support	3 (THREE ) Years
3	Data Migration from old to the new servers	1 (ONE)

**In addition bidders to note and comply to EAPC PLC Infrastructure Upgrade for 2021 as per Data sheet below**

<b>EAPC PLC ICT Infrastructure Upgrade-2021</b>					
#	Product Name	Product Qty	Option Name		
1	Primary Site HCI Node	3	Hyper Converged Appliance	Hyper Converged Appliance	1
			Chassis Configuration	Chassis with up to 12x3.5" HDD, 4 x3.5" HDDs on MP and 4x2.5" HDDs on Flexbay for 1 or 2CPU Config	1
			Trusted Platform Module	Trusted Platform Module 2.0	1

Processor	Intel Xeon Silver 4214 2.2G, 12C/24T, 9.6GT/s, 16.5M Cache, Turbo, HT (85W) DDR4-2400	1
Additional Processor	Intel® Xeon® Silver 4214 2.2G, 12C/24T, 9.6GT/s, 16.5M Cache, Turbo, HT (85W) DDR4-2400	1
Processor Thermal Configuration	2 Heatsinks for Midbay Configuration	1
Memory Configuration Type	Performance Optimized	1
Memory DIMM Type and Speed	3200MT/s RDIMMs	1
Memory Capacity	32GB RDIMM, 3200MT/s, Dual Rank, 8Gb BASE	8
Operating System	VMware ESXi 7.0 U1 Embedded Image (License Not Included)	1
OS Media Kits	No Media Required	1
Boot Optimized Storage Cards	BOSS controller card + with 2 M.2 Sticks 240G (RAID 1),FH	1
Virtualization software and Support	VMware HCI Kit Standard, 1 CPU (max 32 cores/CPU socket), 3YR License/Maintenance	2
RAID Configuration	C1, No RAID for HDDs/SSDs (Mixed Drive Types Allowed)	1
RAID/Internal Storage Controllers	HBA330 Controller, 12Gbps Mini card	1
Hard Drives	8TB 7.2K RPM SAS 12Gbps 512e 3.5in Hot-plug Hard Drive	4
Hard Drives (PCIe SSD/Flex Bay)	8TB 7.2K RPM NLSAS 12Gbps 512e 3.5in Internal Hard Drive	2
Hard Drives (PCIe SSD/Flex Bay)	1.92TB SSD SATA Mix Use 6Gbps 512 2.5in Flex Bay AG Drive, 3 DWPD,	3
Advanced System Configurations	UEFI BIOS Boot Mode with GPT Partition	1
Fans	6 Performance Fans	1
Power Supply	Dual, Hot-plug, Redundant Power Supply (1+1), 1100W	1
Power Cords	Rack Power Cord 2M (C13/C14 10A)	2
PCIe Riser	Riser Config 1, 4 x8 slots	1
Embedded Systems Management	OOB MGT ,Enterprise	1
Network Daughter Card	Intel X550 Quad Port 10GbE BASE-T, rNDC	1



			Bezel	2U Standard Bezel for VSAN	1
			Quick Sync	Quick Sync 2 (At-the-box mgmt)	1
			Rack Rails	Ready Rails™ Sliding Rails With Cable Management Arm	1
			Support Services	Pro Support and Next Business Day Onsite Service, 36 Month(s)	1
			Deployment Services	OEM Deployment Services	1
2	<b>PR Site Switch</b>	2	Operating System	OS10 Enterprise	1
			Base	Switch 1U, 28 x 10Gbase-T, 2 x QSFP28, IO to PSU, 2 PSU, OS10	1
			Power Cords	Power Cord, PDU (Rack)	2
			QSFP+Direct Attach Cables (40GbE)	Cable, QSFP+ to QSFP+, 40GbE Passive Copper Direct Attach Cable, 1 Meter	2
			Deployment Services	OEM Deployment Services	1
			Support Services	3Yr Pro Support and Next Business Day On-Site Service	1
3	<b>DR Site HCI Node</b>	2	<b>Hyper Converged Appliance</b>	<b>Hyper Converged Appliance</b>	1
			Chassis Configuration	Chassis with up to 12x3.5" HDD, 4 x3.5" HDDs on MP and 4x2.5" HDDs on Flexbay for 1 or 2CPU Config	1
			Trusted Platform Module	Trusted Platform Module 2.0	1
			Processor	Intel Xeon Silver 4214 2.2G, 12C/24T, 9.6GT/s, 16.5M Cache, Turbo, HT (85W) DDR4-2400	1
			Additional Processor	No Additional Processor	1
			Processor Thermal Configuration	1 Heatsink for Midbay Configuration	1
			Memory Configuration Type	Performance Optimized	1
			Memory DIMM Type and Speed	3200MT/s RDIMMs	1
			Memory Capacity	32GB RDIMM, 3200MT/s, Dual Rank, 8Gb BASE	8
			Operating System	VMware ESXi 7.0 U1 Embedded Image (License Not Included)	1

		OS Media Kits	No Media Required	1
		Boot Optimized Storage Cards	BOSS controller card + with 2 M.2 Sticks 240G (RAID 1),FH	1
		Virtualization software and Support	VMware HCI Kit Standard, 1 CPU (max 32 cores/CPU socket), 3YR License/Maintenance	1
		RAID Configuration	C1, No RAID for HDDs/SSDs (Mixed Drive Types Allowed)	1
		RAID/Internal Storage Controllers	HBA330 Controller, 12Gbps Mini card	1
		Hard Drives	16TB Hard Drive 7.2K SAS 12Gbps 512e 3.5in Hot-Plug	5
		Hard Drives (PCIe SSD/Flex Bay)	1.92TB SSD SATA Mix Use 6Gbps 512 2.5in Internal Bay AG Drive,3.5in HYB CARR, 3 DWPD,	1
		Hard Drives (PCIe SSD/Flex Bay)	1.92TB SSD SATA Mix Use 6Gbps 512 2.5in Flex Bay AG Drive, 3 DWPD,	4
		Advanced System Configurations	UEFI BIOS Boot Mode with GPT Partition	1
		Fans	6 Performance Fans	1
		Power Supply	Dual, Hot-plug, Redundant Power Supply (1+1), 1100W	1
		Power Cords	Rack Power Cord 2M (C13/C14 10A)	2
		PCIe Riser	Riser Config 1, 4 x8 slots	1
		Embedded Systems Management	OOB MGT,Enterprise	1
		Network Daughter Card	Intel X550 Quad Port 10GbE BASE-T, rNDC	1
		Bezel	2U Standard Bezel for VSAN	1
		Quick Sync	Quick Sync 2 (At-the-box mgmt)	1
		Rack Rails	ReadyRails™ Sliding Rails With Cable Management Arm	1
		Support Services	ProSupport and Next Business Day Onsite Service, 36 Month(s)	1
		Deployment Services	OEM Deployment Services	1
4	<b>DR Site Switch</b>	<b>1</b>		
		Operating System	OS10 Enterprise	1

		Base	Switch 12 x 10GBaseT, 3 x 100GbE QSFP28, IO to PSU, 2 x AC PSU, OS10	1
		Power Cords	Power Cord, PDU (Rack)	2
		Support Services	3Yr Pro Support and Next Business Day On-Site Service	1
		Deployment Services	OEM Deployment Services	1
5	Data Protection Solutions [Backup Appliance]:	<b>Component</b>	<b>Mandatory Requirements (Specification)</b>	
		1. Backup Solution	It should be a Specialized disk based backup appliance that can be used for both Backup and Archive	N / A
		2. Compatibility	The solution must support (be compatible with) the proposed Hyper-converged appliance	N / A
		3. Quantity	At least one (1) quantity of 32 TB usable (minimum) capacity licensed	1
		4. Connectivity	Should have the following interfaces:  2 No.s of 10GbE SFP+ ports & 10GbE Base-T ports	2
		5. Capability	The solution must support backup and recovery of both Windows, Linux and Unix environments	
			Should have advanced data protection technologies such as data de-duplication, compression bare metal server recovery and APIs for virtual environment integration.	
			Must support VTL, CIFS, NFS and NDMP.	
Solution must support backup stream of 3.8 TB/hr or more				
6. Supported Software	The appliance must support the following backup software: Symantec backup Exec and NetBackup, IBM Tivoli Storage manager, EMC Avamar, Commvault, VEEAM, VDPA, HP data protector			
7. Native	The backup appliance must support direct backup of the following			

	Application Support	application using native plugins without using backup software and must support online backup : SAP(Sybase and HANA), Oracle, Microsoft SQL	
	8. Deduplication	Solution must deduplicate globally across the entire system and across backup application type	
		Solution must provide the flexibility to distribute the deduplication process.	
		Solution must always deduplicate inline before data is written to disk	
	9. Performance	Solution must rely on CPU and memory—not disk drives—for performance.	
	10. Write Lock	Solution must be able to lock files against edit after archiving	
	11. Fault Detection	Solution must have built-in continuous fault detection and healing.	
	<b>Veeam Back up Software</b>		
	12. VM Recovery	Boot VMs directly from the solution using a protection copy	
		Solution must support backup of VMware VMs and support file level recovery of the VMs	
	13. Replication	Solution must be provided with 30VM licenses of near zero RTO and RPO software for VMware VMs failover	
	14. Data Verification	Solution must include built-in functionality to continually verify that the data stored on the system can be accessed and restored in its original form	
	15. Installation	The bidder is required to provide costing for the installation in the existing Rack and stack and implementation.	
	16. Support	3 Years Hardware Support license and 3 Years 8/5 software support license (L2/L3)	
6	<b>Data migration</b>	Data migration from the existing servers and Storage to the new infrastructure	

## TENDER EVALUATION CRITERIA

The tender will be evaluated in Three (3) Stages

### Stage 1. Preliminary / Mandatory Evaluation Criteria

**Tenderers are required to submit copies of the following MANDATORY DOCUMENTS which will be used during the preliminary Examination to determine responsiveness.**

<b>No</b>	<b>Mandatory Requirement</b>	<b>Confirm Attachment</b>
<b>1</b>	Attach certificate of Incorporation/Registration of the company	
<b>2</b>	Attach valid KRA Tax Compliance Certificate	
<b>3</b>	Attach Copy of valid DELL License ( Dell Gold Partner)	
<b>4</b>	Attach Copy of valid VMware Enterprise Partner license (VMware Certified )	
<b>5</b>	Bid Security for Kes. 1,000,000 ( One Million ) From a Financial Institutions and PPOA approved Insurance Company/s	

**Stage 2. Technical Requirement and Evaluation Criteria.**

No	Technical Requirement	MAXIMUM SCORE
<b>A</b>	<p><b>Compliance to Specifications.</b></p> <p>1) Provide the Manufacturer’s technical data, warranty &amp; support. <b>(5Marks).</b></p> <p>2) Authorized Dell Deployment Partner. Attach Evidence<b>(23 Marks)</b></p> <p>3) Bidder with ICT Authority Registration Certificate will have an added advantage ( Attach Evidence) <b>(2 Marks)</b></p>	<b>30</b>
<b>B</b>	<p><b>Experience of the Firm.</b></p> <p>Provide evidence of at least <b>three (3) for</b> supply of <b>Servers and Storage, with Data migration, licenses &amp; support</b> for institutions of similar or bigger capacity to EAPC PLC during the last five (4) years, the evidence should be in form of: copy of an operational acceptance certificate or copy of contract, Service order or Completion Certificate that has been successfully and substantially completed and that are similar to the proposed solution. Confirmation of the above will based on the bidders corresponding evidence <b>(10Marks each).</b></p>	<b>30</b>
<b>C</b>	<p><b>Personnel Capacity.</b></p> <p>Attach at least two (2) CVs of the proposed support personnel. Must be employees of the bidder. <b>(5 Marks each).</b></p>	<b>10</b>
<b>Total Marks For Technical Evaluation Criteria</b>		<b>70</b>

**Note:**

**The pass mark score for Technical evaluation SHALL be 70% 49/70 and only bidders who shall have passed Technical evaluation will proceed for commercial evaluation.**

**Stage 3) Commercial evaluation**

No.	Commercial Requirement	Maximum Score
1	Price <i>(the lower the price the higher the marks)</i>	15
2	Payment terms indicated ( in compliance with employer – EAP plc requirement of 45 days after Invoice ) or Indicate Otherwise	5
3	Delivery Period / Completion period ( the shorter period / Immediately )	5
4	Price validity	5
<b>TOTAL SCORE FOR COMMERCIAL EVALUATION</b>		<b>30</b>

## NOTE

### Evaluation and Comparison of Bids

- a) An appointed committee shall evaluate the Bids which have been determined to be substantially responsive. The minimum technical score required to pass is 70 % ( 49/70).
- b) Award of the tender shall be to the lowest evaluated bidder who will be successfully evaluated in line with the tender requirement (Those who score 70% and above shall proceed to the technical evaluation)
- c) Should none of the bidders score 70% (49/70 marks) and above, then the Committee shall recommend re-tendering of this bid.

### Bills of Quantities/Price Schedule.

- The tender shall be awarded to the **lowest bidder who will have passed the Technical Evaluation as per criteria set.**
- Negotiations may be held with the tenderer with the lowest bid.

#### (a) PRICE SCHEDULE

<b>Item No.</b>	<b>Item Description</b>	<b>Quantity</b>	<b>Unit Price ( In KES )</b>	<b>VAT (In KES)</b>	<b>TOTAL AMOUNT ( In KES)</b>
1.	Dell storage, Servers and Virtualization Soft Ware 3 Years – Support and Warranty equipment	<b>1 unit</b>			
2.	Backup Solution (Hardware and Software) for 25 VMs – 3 Years support and Warranty.	<b>3 Years</b>			
3.	Deployment and Data Migration	<b>1 unit</b>			
	<b>Total</b>				
	<b>VAT</b>				
	<b>TOTAL</b>				

### GRAND SUMMARY

ITEM	AMOUNT – Kes
Total from the BOQ	
Add 16% VAT (If applicable)	
<b>TOTAL BID SUM TO THE FORM OF BID</b>	
<b>AMOUNT IN WORDS AND INCLUSIVE OF ALL TAXES</b>	
Name of Bidder..... Physical Address..... Building..... Town..... Name of Authorized Representative of Bidder..... Payment Terms..... Price Validity ..... Delivery Period .....  Signature.....   Date.....	
Official Stamp/Company Seal	

**(b) COMMERCIAL EVALUATION**

No.	Commercial Requirement	Maximum Score
1	Price ( <i>the lower the price the higher the marks</i> )  1 Unit - Dell storage and servers to replace the old and failed equipment <b>( 8 Marks )</b> 2 3 Years - VMware license and support ( <b>2 Marks</b> ) 3 1 Unit - Data Migration from old to new servers ( <b>5 Marks</b> )	15



2	Payment terms indicated ( in compliance with employer – EAP plc requirement of 45 days after Invoice ) or Indicate Otherwise	5
3	Delivery Period / Completion period ( the shorter period / Immediately )	5
4	Price validity	5
<b>TOTAL SCORE FOR COMMERCIAL EVALUATION</b>		<b>30</b>

**SCHEDULE OF PARTICULARS**

These Particulars are to be entered in the appropriate place on the following pages. Failure to complete all of these schedules fully or the giving of false information may invalidate the Bid and cause for forfeiture of the Bid Bond.

**SCHEDULE 1 – FINANCIAL STATUS**

- a) Name and Address of bankers (State Branch) Postal Address and Account No.....
  - b) Name of Account Held at that Branch.....
  - c) Bidder to sign here authority by the Bank Manager to release details of the Account to Managing Director, The East African Portland Cement PLC P.O. Box 2 0 -00204 Athi River o r h i s authorized representation upon production of this signed authority.
  - d) Annual turnover of the last Audited Account.....
  - e) Financial year for which the most recent audited account may be inspected at registrar of Companies.....
  - f) Maximum value of all Contracts worked concurrently within the last two years.....
- .....
- .....

**SCHEDULE 2 – PARTICULARS OF PREVIOUS EXPERIENCE**

Bidders must insert in the space below and submit with the Bid the following statements, showing a list of works they have successfully carried out within the last three years

NAME OF CLIENT	NATURE OF WORK	VALUE OF WORK	YEAR COMPLETED	REMARKS

I hereby certify that the above works have been successfully carried out by me/us and that I am fully experienced and competent in the type of work included in this bid and have adequate financial resources to carry out the work in this contract within the period for completion.

Sign.....

Date.....

## SECTION VII

## - STANDARD FORMS

### Notes on the standard Forms

1. **Form of Tender** - The form of Tender must be completed by the tenderer and submitted with the tender documents. It must also be duly signed by duly authorized representatives of the tenderer.
2. **Contract Form** - The contract form shall not be completed by the tenderer at the time of submitting the tender. The contract form shall be completed after contract award and should incorporate the accepted contract price.
3. **Confidential Business Questionnaire Form** - This form must be completed by the tenderer and submitted with the tender documents.
4. **Tender Security Form** - When required by the tender document the tenderer shall provide the tender security either in the form included hereinafter.
5. **Performance security Form** - The performance security form should not be completed by the tenderer at the time of tender preparation. Only the successful tenderer will be required to provide performance security in the form provided herein or in another form acceptable to the East African Portland Cement PLC.

**4.1 FORM OF TENDER**

**To: Sir/Madam: Date** \_\_\_\_\_

Tender No. **EAPC PLC /OT/242/2021**

Having examined the Tender documents including Addenda Nos.*[insert addenda numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer our bid for **SUPPLY AND REPLACEMENT OF SERVER INFRASTRUCTURE AND DATA MIGRATION.** conformity with the said Tender documents for the sum *as per the Price Schedule* or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.

We undertake, if our Tender is accepted, to deliver the Services in accordance with the delivery schedule specified in the Schedule of Requirements.

We agree to abide by this Tender for the Tender validity period specified in Clause 2.13 of the Appendix to Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

We are not participating, as Tenderers, in more than one Tender in this Tendering process.

Our firm, its affiliates or subsidiaries – including any subcontractors or suppliers for any part of the contract – has not been declared ineligible by the Government of Kenya under Kenyan laws.

Until a formal Contract is prepared and executed, this Tender, together with your written acceptance thereof and your notification of award, shall constitute a binding Contract between us.

We understand that you are not bound to accept the lowest or any Tender you may receive.

We certify/confirm that we comply with the eligibility requirements as per ITT Clause 3 of the Tender Documents

Dated This Day \_\_\_\_\_

*[signature]* \_\_\_\_\_

\_\_\_\_\_  
*[in the capacity of]*

Duly authorized to sign Tender for and on behalf of \_\_\_\_\_

## **4.2 CONTRACT FORM**

THIS AGREEMENT made theday of

20 between.....[name of procurement \_\_\_\_\_ entity] of .....[country of Procurement entity](hereinafter called “EAPC PLC ”) of the one part and .....[name of tenderer] of .....[city and country of tenderer](hereinafter called “the tenderer”) of the other part.

WHEREAS the procuring entity invited tenders for certain materials and spares. Viz.....[brief description of materials and spares] and has accepted a tender by the tenderer for the supply of those materials and spares in the sum of .....[contract price in words and figures]

NOW THIS AGREEMENT WITNESSETH AS FOLLOWS:

1. In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.
2. The following documents shall be deemed to form and be read and construed as part of this Agreement, viz.:
  - (a) the Tender Form and the Price Schedule submitted by the tenderer; (b) the Schedule of Requirements;
  - (c) the Technical Specifications;
  - (d) the General Conditions of Contract;
  - (e) the Special Conditions of Contract; and
  - (f) EAPC PLC ’s Notification of Award.
3. In consideration of the payments to be made by the Procuring entity to the tenderer as hereinafter mentioned, the tenderer hereby covenants with EAPC PLC to provide the materials and spares and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. EAPC PLC hereby covenants to pay the tenderer in consideration of the provision of the materials and spares and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

IN WITNESS whereof the parties hereto have caused this Agreement to be executed in accordance with their respective laws the day and year first above written.

Signed, sealed, delivered by\_\_\_\_\_the \_\_\_\_\_(for EAPC PLC ) Signed, sealed,

delivered by\_\_\_\_\_the \_\_\_\_\_(for the tenderer)

in the presence of\_\_\_\_\_

## CONFIDENTIAL BUSINESS QUESTIONNAIRE FORM

You are requested to give the particulars indicated in Part 1 and either Part 2(a), 2 (b) or 2 (c) whichever applied to your type of business

You are advised that it is a serious offence to give false information on this form

*Part 1 – General:*

Business Name  
.....

Location of business premises.  
.....

Plot No..... Street/Road  
.....

Postal Address ..... Tel No. .... Fax ..... E mail  
.....

Nature of Business  
.....

Registration Certificate No.  
.....

Maximum value of business which you can handle at any one time – Kes.  
.....

Name of your bankers ..... Branch  
.....

**Part 2 (a) – Sole Proprietor**

Your name in full ..... Age .....

Nationality ..... Country of origin .....

.....  Citizenship details

**Part 2 (b) Partnership**

Given details of partners as follows:

Name	Nationality	Citizenship Details	Shares
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1. ....

.....

2. ....

.....

3. ....

.....

4. ....

.....

**Part 2 (c) – Registered Company**

Private or Public  
.....

State the nominal and issued capital of company-

Nominal Kes. ....

Issued Kes. ....

Given details of all directors as follows

Name	Nationality Shares	Citizenship Details
1..... .....		

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2.



.....

.....  
3.

.....

.....

4.

.....

.....

5

.....

.....

Date ..... Signature of Candidate

.....

- If a Kenya Citizen, indicate under "Citizenship Details" whether by Birth, Naturalization or registration.

**PERFORMANCE SECURITY FORM**

To .....  
[Name of procuring entity]

WHEREAS ..... [Name of Bidder] (Hereinafter called “the Bidder”) has undertaken, in pursuance of Contract No. \_\_\_\_\_ [Reference number of the contract] dated \_\_\_\_\_ 20 \_\_\_\_\_ to supply ..... [Description of goods] (Hereinafter called “the Contract”).

AND WHEREAS it has been stipulated by you in the said tender that the Bidder shall furnish you with a bank guarantee by a reputable bank for the sum specified therein as security for compliance with the Bidder’s performance obligations in accordance with the Contract.

AND WHEREAS we have agreed to give the Bidder a guarantee:

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the Bidder, up to a total of ..... [amount of the guarantee in words and figure] and we undertake to pay you, upon your first written demand declaring the Bidder to be in default under the Contract and without cavil or argument, any sum or sums within the limits of ..... [Amount of guarantee] as aforesaid, without you needing to prove or to show grounds or reasons for your demand or the sum specified therein.

This guarantee is valid until the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

Signed and seal of the Guarantors

\_\_\_\_\_  
[Name of bank or financial institution]

\_\_\_\_\_  
[Address]

\_\_\_\_\_  
[Date]

**BANK GUARANTEE FOR ADVANCE PAYMENT FORM**

To .....

*[name of Procuring entity]*

[name of tender] .....

Gentlemen and/or Ladies:

In accordance with the payment provision included in the Special Conditions of Contract, which amends the General Conditions of Contract to provide for advance payment, ..... [name and address of tenderer](hereinafter called “the tenderer”) shall deposit with the Procuring entity a bank guarantee to guarantee its proper and faithful performance under the said Clause of the Contract in an amount of ..... [amount of guarantee in figures and words].

We, the ..... [bank or financial institutions], as instructed by the tenderer, agree unconditionally and irrevocably to guarantee as primary obligator and not as surety merely, the payment to the Procuring entity on its first demand without whatsoever right of objection on our part and without its first claim to the tenderer, in the amount not exceeding ..... [amount of guarantee in figures and words]

We further agree that no change or addition to or other modification of the terms of the Contract to be performed there-under or of any of the Contract documents which may be made between the Procuring entity and the tenderer, shall in any way release us from any liability under this guarantee, and we hereby waive notice of any such change, addition, or modification.

This guarantee shall remain valid in full effect from the date of the advance payment received by the tenderer under the Contract until ..... [date].

Yours truly,

Signature and seal of the Guarantors

\_\_\_\_\_ [name of bank or financial institution]

\_\_\_\_\_ [address]

\_\_\_\_\_ [date]