



TENDER DOCUMENT

FOR

OUTSOURCING OF PACKING PLANT MANPOWER SERVICES

TENDER NO. EAPC PLC/OT/286/2022

CLOSING DATE: MONDAY 17TH OCTOBER, 2022

CLOSING TIME: 12:00 NOON

TABLE OF CONTENTS

SECTION I	INVITATION TO TENDER.....	2
SECTION II	INSTRUCTIONS TO TENDERERS.....	2
	APPENDIX TO INSTRUCTIONS TO TENDER	11
SECTION III	GENERAL CONDITIONS OF CONTRACT.....	14
SECTION IV	SPECIAL COND1TIONS OF CONTRACT.....	17
SECTION V	SCHEDULE OF REQUIREMENTS.....	18
SECTION VI	DESCRIPTION OF SERVICES.....	21
SECTION VI	STANDARD FORMS.....	27

SECTION I – INVITATION TO BID - Provision for Outsourcing of Packing plant services

- 1.1 The East African Portland Cement Company Ltd (EAPC PLC) one of the leading Cement manufacturing Companies in Kenya, invites sealed bids from eligible candidates for **Provision of outsourcing of packing plant services**. The detailed breakdown of the requirements can be obtained in the schedule of requirements/price schedule stipulated in this bid document.
- 1.2 The candidates may obtain further information from the company website and at the Procurement Office, East African Portland Cement Company Ltd, off Namanga Road Athi River, during normal working (8.30-17.00 hours local time on Mondays to Friday except during lunch hour time from 13.00 to 14.00 hours and public holiday).
- 1.3 A complete set of bid documents can be downloaded from the company website (www.eastafricanportland.com) and IFMIS portal (<https://supplier.treasury.go.ke>) free of charge. Candidates who do not wish to download can obtain a hard copy by paying a non-refundable fee of Kenya Shillings 1,000.00 (One thousand Kenya Shillings only) in cash or bankers cheque payable to East African Portland Cement Ltd.
- 1.4 Completed Bid documents are to be enclosed in plain sealed envelopes marked with Bid reference number and be deposited in the Bid 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 17TH OCTOBER,2022**.
- 1.5 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.
- 1.6 Bids will be opened immediately thereafter in the presence of the Candidates or their representatives who choose to attend at East African Portland Cement Company Ltd Boardroom.
- 1.7 All bids shall be accompanied by a bid bond from the bank of not less than **KES 500,000/=** (Five Hundred Thousand only) **or an equivalent amount in USD convertible to KES using the Central Bank of Kenya rate at the time of tender closing date**
- 1.8 The East African Portland Cement Company Ltd reserves the right to accept /reject all or part of the Bids and is bound to give reasons for doing so.
- 1.9 Site visit will be on WEDNESDAY, 12TH OCTOBER, 2022, I n t e r e s t e d bidders to assemble at plant in Athi River by **10.00am (please keep time)**. They shall contact **Mr. Theophilus Sitienei /Peter Mapenay** who shall accompany them to the site. **N/B THE SITE INSPECTION SHALL ONLY BE DONE ON THIS DAY AND EAPC PLC SHALL REPRESENTATIVE SHALL NOT BE AVAILABLE ANY OTHER TIME / DAY FOR visits.**
- 1.10 Any additional information, addendums or clarifications in respect to this tender will be available in our website **www.eastafricanportland.com** .All bidders are advised to regularly check the website during the bidding period. Bidders who choose to download the tender from website **www.eastafricanportlan.com** or public procurement information portal: <https://tenders.go.ke> and

should forward their company's details to; customercare@eapcc.co.ke; moses.sudi@eapcc.co.ke;
esther.wachira@eapcc.co.ke

so that any addendum /clarifications can be sent to their email address. East African Portland Cement Plc reserves the right to accept or reject any tender and may 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.

For: Managing Director

The East African Portland Cement Company Ltd

Off Namanga Road,

P O Box 20-00204

Athi River, Kenya.

Tel. 0709 855000,

E-mail: customercare@eapcc.co.ke

Website: www.eastafricanportland.com

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. The procuring entity's employees, committee members, board members and their relatives (spouse and children) are not eligible to participate in the tender unless where specially allowed under section 131 of the Act.
- 2.1.3. Tenderer 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 the Procuring entity 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 Tenderer 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 the procuring entity, will in no case be responsible or liable for those costs, regardless of the conduct or outcome of the tendering process.
- 2.2.2 The price to be charged for the tender document shall not exceed Kshs.1,000/= but can be downloaded from the company website (www.eastafricanportland.com) and IFMIS portal (<https://supplier.treasury.go.ke>), or public procurement information portal free of charge.
- 2.2.3 The procuring entity shall allow the tenderer to review the tender document free of charge before purchase.

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) Details of service
 - vi) Form of tender
 - vii) Price schedules
 - viii) Contract form
 - ix) Confidential business questionnaire form
 - x) Performance security form
 - xi) Certificate of Tenderer Site visit 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 the Procuring entity in writing or by post, fax or email at the entity's address indicated in the Invitation for tenders. The Procuring entity will respond in writing to any request for clarification of the tender documents, which it receives not later than four (4) days prior to the deadline for the submission of tenders, prescribed by the procuring entity. 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. The procuring entity 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, the Procuring entity, 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, the Procuring entity, 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 the Procuring entity, 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 paragraph 9, 10 and 11 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) 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 the procuring entity 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 the Procuring entity's satisfaction that the tenderer has the financial and technical capability necessary to perform the contract.

2.12 Tender Security

- 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 the Procuring entity against the risk of Tenderers conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7
- 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 bank guarantee.

- 2.12.5 Any tender not secured in accordance with paragraph 2.12.1 and 2.12.3 will be rejected by the Procuring entity as non responsive, pursuant to paragraph 2.20
- 2.12.6 Unsuccessful tenderers 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 the procuring entity.
- 2.12.7 The successful tenderers tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.26, and furnishing the performance security, pursuant to paragraph 2.37.
- 2.12.8 The tender security may be forfeited:
- (a) If a tenderer **withdraws** its tender **during** the period of tender validity specified by the procuring Entity on the Tender Form; or
 - (b) 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.
 - (c) 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 the Procuring entity, pursuant to paragraph 2.18. A tender valid for a shorter period shall be rejected by the Procuring entity as nonresponsive.
- 2.13.2 In exceptional circumstances, the Procuring entity 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 tenderer shall prepare two copies of the tender, clearly marking each "ORIGINAL TENDER" and "COPY OF TENDER," as appropriate. In the event of any discrepancy between them, the original shall govern.
- 2.14.2 The original and all copies of the tender 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 of both Technical and – Commercial envelope (combined).

2.15.1 The tenderer shall seal the original and each copy of the tender in separate envelopes, duly marking the envelopes as "ORIGINAL" and "COPY." The envelopes shall then be sealed in an outer envelope. The inner and outer envelopes shall:

- (a) Be addressed to the Procuring entity at the address given in the invitation to tender
- (b) **Bear, tender number (EAPC PLC/OT/286/2022) and name in the invitation to tender (OUTSOURCING OF PACKING PLANT SERVICES) and the words: "DO NOT OPEN BEFORE MONDAY 17TH OCTOBER,2022AT 12.00 NOON."**

2.15.2 The inner 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".

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

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

2.16 Deadline for Submission of Tenders

2.16.1 Tenders must be received by the Procuring entity at the address specified in the appendix to instructions to tenderers no later than **MONDAY 17TH OCTOBER,2022 at 12.00P.M.**

2.16.2 The procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 5, in which case all rights and obligations of the procuring entity 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 procuring entity as provided for in the.

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 the procuring entity 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, post marked not later than the deadline for submission oftenders.

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 The procuring entity may at any time terminate procurement proceedings before contract award and shall not be liable to any person for the termination.
- 2.17.6 The procuring entity 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

- 2.18.1 The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend, at **12.00 p.m. on MONDAY 17TH OCTOBER, 2022** and in the location specified in the invitation to tender. The tenderers' representatives who are present shall sign a register evidencing their attendance.
- 2.18.2 The tenderers' names, tender modifications or withdrawals, tender prices, discounts, and the presence or absence of requisite tender security and such other details as the Procuring Entity, at its discretion, may consider appropriate, will be announced at the opening.
- 2.18.3 The procuring entity 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 the procuring entity 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 the procuring entity in the procuring entity'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 The Procuring entity 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 The Procuring entity 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 2.22, 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. The Procuring entity'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 the Procuring entity 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, the procuring entity 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 The procuring entity 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 The Procuring entity'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 2.23 the following evaluation methods will be applied:

(a) Operational Plan.

The Procuring entity 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 the procuring entity'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. The Procuring entity may consider the alternative payment schedule offered by the selected tenderer.

2.22.5 The tender evaluation committee shall evaluate the tender within 15 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) Shall be solely responsible for provision of Safety to its employees including provision of PPE and instruct on its use.
- (c) Comply with all safety, health and welfare legislations and rules affecting its employees.
- (d) Legal capacity to enter into a contract for procurement
- (e) 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

(f) Shall not be debarred from participating in public procurement.

2.23. Contacting the procuring entity

- 2.23.1 Subject to paragraph 2.19, no tenderer shall contact the procuring entity 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 the procuring entity 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, the Procuring entity 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 the Procuring entity 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 the Procuring entity 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 2.29 the Procuring entity 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 The procuring entity 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 the procuring entity's action. If the procuring entity determines that none of the tenderers is responsive; the procuring entity 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, the Procuring entity 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 the procuring entity 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, the Procuring entity 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 the Procuring entity notifies the successful tenderer that its tender has been accepted, the Procuring entity 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 the Procuring entity.

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 Within thirty (30) days of the receipt of notification of award from the Procuring entity, 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 the Procuring entity.

2.27.2 Failure of the successful tenderer to comply with the requirement of paragraph 2.29 or paragraph 2.30.1 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Procuring entity may make the award to the next lowest evaluated or call for new tenders.

2.28 Corrupt or Fraudulent Practices

2.28.1 The Procuring entity 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 The procuring entity 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
2.1	Particulars of eligible tenderers: Firms Offering Packing Plant Man power services and Registered in Kenya
2.2.2	Price to be charged for tender documents. Kes. 1,000 for those who purchase the tender Document directly and free for those who download the document.
2.10	Particulars of other currencies allowed. None
2.11	Particulars of eligibility and qualifications documents of evidence required. Please see Mandatory requirements below
2.12.1	Bidders are required to provide a tender security of Kes. 500,000 (Five Hundred Thousand Only) issued by a bank in Kenya. BID SECURITY from INSURANCE company will only be allowed from the Insurance firms approved by PPRA.
2.13	Validity of Tenders 180 days after date of Tender Opening.
2.14.1	Copies of Tender Documents to be Submitted: An original and one (1) copy of the bid.
2.16.1	Address of Receiving Tenders: Completed Tender Documents should be deposited in the Tender box located at Customer Care Office- East African Portland Cement Plc - Athi river along Namanga Road.
2.16.3	Bulky tenders which will not fit in the tender box shall be delivered to the Procurement Unit. <i>(signing of register to confirm delivery will be required)</i>
	<p>Evaluation and comparison of Tenders: The following evaluation criteria shall be applied notwithstanding any other requirement in the tender documents.</p> <p><i>a) Mandatory Requirements (MR)</i></p>

TENDER EVALUATION

The tender shall be evaluated in 3 (three) different stages

1. Mandatory Requirement and Responsiveness to Compliance

At this stage, the tenderer's submission will either be responsive or non-responsive. The non-responsive submissions will be eliminated from the entire evaluation process and will not be considered further.

No	COMPLIANCE CHECKLIST	MANDATORY YES/NO
MR1	submit copy of certificate of registration/incorporation	YES
MR2	submit a copy of valid tax compliance certificate from KRA	YES
MR3	Company CR 12	YES
MR4	Company Profile indicating physical location, current post office Box & proof of payment	YES
MR5	Bid Bond of Kes. 500,000.00 from a financial Institution or from PPRA approved Insurance firms	YES
MR6	Duly filled in Form of Tender	YES
MR7	Must provide evidence of workers injury benefit (WIBA) insurance policy	YES
MR8	Duly filled and stamped Certificate of site visit below by EAPC PLC appointed representative Mr. Peter Mapenay or Mr. Philip Kibii	YES
MR9	Statement that you are not debarred in participating in procurement tender.	YES
MR10	Proof of payment of NSSF & NHIF for staff for a period of 2 years.	YES
MR11	Audited statement of account for the last 2 years.	YES
MR12		
MR13	Duly serialized / paginated bid documents	YES

2. Technical Requirement and Evaluation Criteria

DESCRIPTION OF SERVICES

The East African Portland Cement (EAPC PLC) factory/ head office is located in Athi River along Namanga road. Interested bidders are required to visit the factory so as to understand the scope of work before submitting their bids. Site visit will be scheduled on **WEDNESDAY, 12TH OCTOBER, 2022 10.00 am**
Contact person is **Mr. Peter Mapenay** on 0709-835-431 or **Mr. Philip Kibii** on 0709-835-617
All bidders visiting site must fill in the site visit certificate and have it signed and stamped by EAPC PLC Representative

DETAILS OF SERVICES TO BE OFFERED ARE AS FOLLOWS

A) Scope

The scope of service includes but is not limited to

- 100% compliance to safety requirements and per EAPCC standards
- Preparation and implementation of a loading plan
- Offloading of cement bags from the suppliers delivery trucks as & when required.
- Collection of cement paper bags (cement bags hoisting) from the cement stores storage area to the

parkers area (within the same premises) and reconciling with the stores staff & packing plant attendant.

- Control of truck inflow and outflow from the packing area to ensure safety and efficiency
- Extraction of cement from the four (4) concrete silos for conveying to the hoppers
- Collection of cement samples for analysis by the quality control team
- Checking on the quality of bags before use
- Efficient Operation of the three (3) cement packers (the bags are placed manually)
- Loading of packed cement into the trucks via the bag loaders
- Offloading of any packed cement from trucks either being returned for refilling or returned from depot
- Handling of cement bags carefully during loading and offloading to minimize breakages and wastage
- Ensuring that the loaded cement is correct number of bags as per the tonnage
- Cleaning and removal of any cement spillages and broken bags
- Recycling of any cement spilled back into the system
- Inspection of the packing equipment and reporting any faults
- Reconciliation of dispatched cement against bags issued
- Housekeeping around the packing plant area to recover any spilt cement. This will include the top of the cement silos
- All other duties that entail the operation of the packing plant to achieve the target dispatch

B) Capacities

- There are three packers each with a capacity of 90 tons per hour
- The intended dispatch is 3000 tons per day. This will range from 1500 to 3000tons
- The payment will be as per the tonnage dispatched per day
- Operations run on a 24-hour basis for 7 days a week
- The Seventh day(Sunday) is dedicated for maintenance and the contractor will be expected to prepare the plant for maintenance by 0800hrs

C) Tools and equipment required

No	Item
1	Brooms(soft)
2	Wheelbarrows
3	Full personal protective equipment(PPE) for all staff
4	Writing material

THE TECHNICAL EVALUATION CRITERIA

At this section (Technical Evaluation) will be marked out of 100 and will determine the technical score (ts) based the DESCRIPTION OF SERVICES above -

No	Evaluation Attribute	Weighting score	Max score
T.S 2	Certificates of good conduct	Provide certified copies of certificates of good conduct from the Kenya Police, Criminal Investigations department for all employees	25
T.S 3	Provide a detailed safety policy which clearly demonstrates provision of PPE, compliance to safety, health and welfare legislations and rules	Marks shall be allocated based on the quality of the Policy as well as provision of the same.	10
T.S 4	Physical facilities , provide details of physical address and contact	Details of physical address and contacts with copy of either title lease document or latest utility	10
T.S 5	No. of Packing staff to be deployed directly to EAPC PLC	The number should be sufficient for carrying out all duties in operating the packing plant. This is a three shift-24 hour operation	25
T.S 6	Organization structure	Give structure with details of responsibilities & job description for packing attendants/supervisor	10
T.S 8	Provide a) Work program/operational plan/schedule b) Standard operating procedures c) Safety management plan-	Provide details- To be evaluated on the quality through demonstration of a measurable items that will help in simplifying the management and Supervision of the Packing plant services.	15
T.S 9	State the maximum period of compensation to your client for incidence of loss where you are blamed from the time it is determined.	(our requirement is a maximum of 30 days)	5
	TOTAL		100

Only bidders who score 70% and above will be subjected to financial evaluation. Those who score below 70% will be eliminated at this stage from the entire evaluation process and will not be considered further.

3. Financial Evaluation Criteria

b) Financial Score (FS)

The formulae for determining the Financial Score (FS) shall be as follows: -

$FS = 100 \times \frac{FM}{F}$ where FS is the financial score; Fm is the lowest priced bidder and F is the price of the bidder under consideration.

S/No	CRITERIA	SCORE
1	Price	15
2	Payment terms indicated	5
3	Delivery period - <i>(bidders to confirm their readiness to start the job after award- the number of days- EAPCC prefers 1 week after signing of contract)</i>	5
4	Validity of Price – state willingness to hold for the entire contract period.	5
	Total	30

2.24

Award Criteria:

Award shall be to the lowest evaluated bidder who has submitted the tender document in line with the tender requirements- (responsive bids - those who score 70 % and above in Technical evaluation.

2.24.4 Particulars of post – qualification if applicable. **EAPC PLC May inspect the premises to confirm details.**

2.25

Particulars of performance security if applicable. **10% of contract sum**

NB/-

Negotiations may be held with the tenderer with the lowest bid who passed the technical evaluation stage and upon successful negotiations will be awarded the contract. if negotiations fail, the bidder with the second lowest bid will be invited by EAPC PLC for negotiations, and upon successful negotiations, be awarded the tender.

SECTION III - GENERAL CONDITIONS OF CONTRACT (GCC)

3.1 Definitions

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

- a) "The contract" means the agreement entered into between the Procuring entity 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 the Procuring entity under the Contract.
- d) "The Procuring entity" means the organization sourcing for the services under this Contract.
- e) "The contractor" means the individual or firm providing the services under this Contract.
- f) "GCC" means general conditions of contract contained in this section
- g) "SCC" means the special conditions of contract
- h) "Day" means calendar day

3.2 Application

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

3.3 Standards

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

3.4 Patent Right's

The tenderer shall indemnify the Procuring entity 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 The specific performance contract shall be submitted together with the tender document, the successful tenderer shall furnish to the Procuring entity 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 the Procuring entity 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 the Procuring entity and shall be in the form of bank guarantee.

3.5.4 The performance security will be discharged by the procuring entity 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 The Procuring entity or its representative shall have the right to inspect and/or to test the services to confirm their conformity to the Contract specifications. The Procuring entity 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 the Procuring entity.

3.6.3 Should any inspected or tested services fail to conform to the Specifications, the Procuring entity 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 the Procuring entity.

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 the procuring entity'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 the procuring entity's prior written consent.

3.10 Termination for Default

3.10.1 The Procuring entity 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 the Procuring entity.

- b) if the tenderer fails to perform any other obligation(s) under the Contract.
 - c) if the tenderer, in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.
- 3.10.2 In the event the Procuring entity 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 the Procuring entity for any excess costs for such similar services.

3.11 Termination of insolvency

The procuring entity 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 the procuring entity.

3.12 Termination for convenience

3.12.1 The procuring entity 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.

3.12.2 For the remaining part of the contract after termination the procuring entity 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 The procuring entity'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.

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.

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

3.17 Notices

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

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

SECTION IV - SPECIAL CONDITIONS OF CONTRACT (SCC)

- 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.

General conditions of contract reference	Special conditions of contract
3.5	Specify performance security if applicable: 10% of Contract Sum
3.7	Specify method Payments. Payment shall be made within 30 days of submission of invoice.
3.8	Specify price adjustments allowed. None
3.16	Specify applicable law. Laws of Kenya

SECTION V – SCHEDULE OF REQUIREMENTS FROM THE BIDDERS

D) SERVICES

EAPC PLC intends to contract a professional firm to provide packing plant services as specified in the Description of Services for a contract period of two years

E) SCHEDULE

Tentatively, the Contractor will be expected to operate the packing plant in order to dispatch cement on eight

(8) hour shifts for six days a week and carry out proper housekeeping on the sixth day for maintenance to be done. The schedule is as follows:

Monday to Saturday:

Shift 1: 0600 - 1400 hrs

Shift 2: 1400 – 2200hrs

Shift 3: 2200 – 0600

hrs Shift 4: Reliever
shift

F) EQUIPMENT AND CLEANING MATERIAL

The Contractor will be expected to use tools and equipment for housekeeping in the packing plant and provide the employees with the necessary personal protective equipment (PPE)

G) STAFF

The number of staff should be sufficient for **three shifts** and **an extra shift for rotation purpose**.

The staff should be physically fit, competent and meet the requirements listed in the technical requirements

The recommended labour at full plant capacity of 3000 tpd is as follows;

- Silo operator: 1 per shift
- Clerk: 1 per shift
- Belt attendants: 2 per shift
- Packer Operators: 4 per shift
- Cement loaders: 18 per shift (6 belt lines)
- Housekeeping: 10 in total

H) UNIFORM AND BADGES

The Contractor will provide the its staff with uniform and identification badges which they will be required to put on all the times when they are working for East African Portland Cement Co. Ltd.

I) TERMS AND CONDITIONS OF EMPLOYMENT

Wages paid to employees to be deployed must conform to the **Ministry of Labour Guidelines on Minimum wages** and all other terms and conditions of employment stipulated in the labour laws. East African Portland Cement will be at liberty to confirm compliance to this from whatever source.

J) GENERAL

- The Service provider /Supplier shall assume full responsibility for the actions or defaults of the Service provider 's employees while performing the Services and shall be solely responsible for their supervision, daily direction and control, payment of salary (including withholding of income taxes and social security), worker's compensation, redundancy and unfair dismissal payments, disability benefits and the like.

- The Service provider shall comply with all statutory requirements applicable to the employment of labour in Kenya at all times.
- The Service provider 's employees must be qualified or otherwise trained and experienced both generally and in accordance with and meet the requirements of this Contract in relation to the nature of their specific duties.
- Service provider employees shall be subject to all reasonable policies, standards and procedures laid down from time to time by the Company necessary for good safety and housekeeping practices and shall be in line with the regulations enforced on the Company's labour force in the performance of their duties.
- The Service provider shall indemnify the Company in respect of any direct loss or damage which is awarded against, suffered, incurred, or agreed to be paid by the Company to the extent that it results from the negligence, carelessness, fraud, theft and/or misuse by its employees.
- The Service provider shall indemnify the Company against claims by any personnel made against the Company arising out of their contracts of employment with the Service provider or their termination including (without limitation) any claim of unfair dismissal or redundancy payment or damages for wrongful dismissal.

K) Age of employees

All employees **Must** meet the requirements as set out in **Labour laws in particular Employment Act, 2007.**

L) Vetting

The successful contractor should have thorough knowledge of employees' background and **must provide certificate of good conduct** before engagement.

M) Adequate Personnel

The contractor should have adequate reserve employees for replacement on unsatisfactory performance, sickness, absence or any other reason.

N) PERFORMANCE

The contractor must perform the required services to standard acceptable to EAPC PLC. Key Performance Indicators (KPIs) will be established to measure the ongoing performance of the contractor.

The Company may apply the following KPIs

- i. Packing and loading complaints
- ii. Losses of cement or pilferage
- iii. Cement bag breakages above normal
- iv. Returns of packed trucks from the weighbridge due to weight discrepancies
- v. Number of accidents/safety incidences(LTIs)
- vi. Loading time and packing plant turn-around time(TAT)
- vii. Housekeeping status based on assessment
- viii. Percentage completion of orders generated for dispatch
- ix. Adherence to safety and PPE policy

The contractor in consultation with the EAPCC representative may propose KPI's which may be used to measure the ongoing performance of the contract.

- The contract will be required to attend a particular site/location with the EAPCC representative to undertake the KPI
- The Company shall carry out routine and random inspection of the contract areas as specified in the scope of works and bills of quantities. The results of the daily/ random inspections shall be factored in factored in during weekly/monthly evaluations.
- The tenderer/contractor shall permit free and unfettered access to and provide such assistance as the Company may require to the company's representatives or other persons authorized or engaged by the company, for purposes of determining the standards or services or compliance with this contract, to

inspect, audit or conduct a survey of the contract areas, equipment, materials, records, work methods or any other aspect related to the services.

- Where the indicates that the contractor has not performed the services to the specified standards, the Company shall deduct from the contract price, the cost of materials and labor and of the service for which the Contractor is in default and the Company has had to rectify.
- The company shall evaluate the performance of the services by the contractor and at its absolute discretion grade the service levels in respect of each month.
- The services shall be executed and maintained in strict accordance with the contract to the satisfaction of the Production Manager and shall comply with and adhere strictly to the Production Manager's (or his representative's) instructions and directions.
- The tenderer shall be required to maintain the highest standards of Packing plant services and decorum as is applicable. The services required shall be to the satisfaction of the Production Manager.
- The contractor in consultation with the Company shall enter into Service Level Agreements (SLAs) which will be used to measure the performance of the contractor. Wherever the service levels will not be met or falls below the evaluated performance, then the above deductions (of Section on Performance Management) will be effected.
- Grading for performance standards attained in each month shall be made in the following manner.
90% and above -Excellent (Satisfactory)
80% to less than 90% -Good
(Satisfactory) 60% to less than 80%
-Fair
50% to less than 60% -Poor
Less than 50% - Very Poor
- In the event that the level of service provided is not satisfactory, the company may deduct from the applicable contract price in respect of the relevant month on the following percentages:-

Evaluated Performance Deduction
60% to less than 80% (average) 5%
50% to less than 60% (poor) 10%
Below 50% (very poor) 30%
- Where the performance for consecutive three months will be below 60%, then termination proceedings will commence.

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. **Price Schedule Form** - The price schedule form must similarly be completed and submitted with the tender.
3. **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.
4. **Confidential Business Questionnaire Form** - This form must be completed by the tenderer and submitted with the tender documents.
5. **Format of Tender Security Instrument** - When required by the tender document the tenderer shall provide the tender security in the form included hereinafter.
6. **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 procuring entity.
7. **List of Clients** - The form is to be filled in the format provided

4.1 FORM OF TENDER

Date _____
Tender No. EAPC PLC/OT/286/2022

To: The HEAD SUPPLY CHAIN
East African Portland Cement Co. Ltd,
P. O. Box 20-00204
Athi River

Sir/Madam:

1. Having examined the Tender documents including Addenda Nos. *[insert addenda numbers]*, the receipt of which is hereby duly acknowledged, we, the undersigned, offer to Provide **Packing plant services** in conformity with the said Tender documents for the sum of ***[total Tender amount in words and figures] (inclusive of taxes)*** or such other sums as may be ascertained in accordance with the Schedule of Prices attached herewith and made part of this Tender.
2. We undertake, if our Tender is accepted, to deliver the Services in accordance with the delivery schedule specified in the Schedule of Requirements.
3. 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.
4. We are not participating, as Tenderers, in more than one Tender in this Tendering process.
5. 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.
6. 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.
7. We understand that you are not bound to accept the lowest or any tender you may receive.
8. We certify/confirm that we comply with the eligibility requirements as per ITT Clause 3 of the Tender documents

Dated this _____ day of _____ 20____ .
(Name _____)

[Signature] _____ *[in the capacity of]*

Duly authorized to sign Tender for and on behalf of _____

2. PRICE SCHEDULE OF SERVICES

Please fill in the charges taking into account the scope of works in Section VI (Description of

Services) Tenderers are advised to visit the site and verify scope of work before providing quote.

S/NO.	TENDER DESCRIPTION		UNIT PRICE (Per Mt) Kes. Inclusive of vat	Estimate Quantity to dispatch per month (Mt)	Total Price per month Inclusive of vat	Estimate Quantity to dispatch per day Range
1.	Outsourcing of packing plant services	Price per tonne		78,000 Mt		24,000 bags to 60,000 bags (1,200 Mt to 3,000 Mt)
	GRAND TOTAL (Total price for 24 months - 2 year contract)					

Authorized official

Name

Signature

Note:

- Charges per month will be based on the number of metric tonnes dispatched.
- The contract shall run for a period of 2 years with a possibility of contract renewal depending on the performance of the awarded bidder.
- Negotiations may be held with the tenderer with the lowest bid who passed the technical evaluation stage and upon successful negotiations will be awarded the contract, if negotiations fail, the bidder with the second lowest bid will be invited by EAPC PLC for negotiations, and upon successful negotiations, be awarded the tender.

CONFIRMATION BY BIDDER:

I, of P.O. Box..... being the authorized representative of(name of firm) do hereby confirm that the firm shall provide the numbers of staff as indicated above, and that the firm shall comply with all legal regulations relating to payment of wages to their employees (Regulation of Wages (General) (Amendment) Order, 2013 or subsequent amendments to it).

Signed & Stamped:

Date:

Kindly state the monthly wages that you will pay to your employee

3. CONTRACT FORM

THIS AGREEMENT made the _____ day of _____ 20____ between [name of procurement entity] of [country of Procurement entity](hereinafter called "the Procuring entity") 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) The Procuring entity'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 the Procuring entity to provide the materials and spares and to remedy defects therein in conformity in all respects with the provisions of the Contract
4. The Procuring entity 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 the Procuring entity)

Signed, sealed, delivered by _____ the _____ (for the tenderer)

in the presence of _____.

4.4 CONFIDENTIAL BUSINESS QUESTIONNAIRE

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.

<p>Part 1 General</p> <p>Business Name</p> <p>Location of Business Premises</p> <p>Plot No..... Street/Road</p> <p>Postal address Tel No.</p> <p>Fax E-MAIL:</p> <p>Nature of Business</p> <p>Registration Certificate No.</p> <p>Maximum value of business which you can handle at any one time – Kshs.</p> <p>Name of your bankers.....</p> <p>Branch</p>

	<p style="text-align: center;">Part 2 (a) – Sole Proprietor</p> <p>Your name in full.....Age.....</p> <p>Nationality.....Country of Origin.....</p> <p>Citizenship details</p>																				
	<p style="text-align: center;">Part 2 (b) – Partnership</p> <p>Given details of partners as follows</p> <table border="0"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship details</th> <th>Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>4.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Name	Nationality	Citizenship details	Shares	1.				2.				3.				4.			
Name	Nationality	Citizenship details	Shares																		
1.																					
2.																					
3.																					
4.																					
	<p style="text-align: center;">Part 2 (c) – Registered Company</p> <p>Private or Public</p> <p>State the nominal and issued capital of company Nominal Kshs.</p> <p>Issued Kshs.</p> <p>Given details of all directors as follows</p> <table border="0"> <thead> <tr> <th>Name</th> <th>Nationality</th> <th>Citizenship details</th> <th>Shares</th> </tr> </thead> <tbody> <tr> <td>1.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>2.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>3.</td> <td></td> <td></td> <td></td> </tr> <tr> <td>4.</td> <td></td> <td></td> <td></td> </tr> </tbody> </table>	Name	Nationality	Citizenship details	Shares	1.				2.				3.				4.			
Name	Nationality	Citizenship details	Shares																		
1.																					
2.																					
3.																					
4.																					
	<p>Date.....Signature of Candidate.....</p>																				

4.5. FORMAT OF TENDER SECURITY INSTRUMENT

Whereas [*Name of the tenderer*] (hereinafter called “the tenderer”) has submitted its tender dated [*Date of submission of tender*] for the [*Name and/or description of the tender*] (hereinafter called “the Tender”)

KNOW ALL PEOPLE by these presents that WE of [*Name of Insurance Company*] having our registered office at (hereinafter called “the Guarantor”), are bound unto [*Name of Procuring Entity*](hereinafter called “the Procuring Entity”) in the sum of of (Currency and guarantee amount) for which payment well and truly to be made to the said Procuring Entity, the Guarantor binds itself, its successors, and assigns by these presents.

Sealed with the Common Seal of the said Guarantor this ____ day of _____ 20_ THE

CONDITIONS of this obligation are:

1. If after tender opening the tenderer withdraws his tender during the period of tender validity specified in the instructions to tenderers, Or
2. If the tenderer, having been notified of the acceptance of his tender by the Employer during the period of tender validity:
 - (a) fails or refuses to execute the form of Agreement in accordance with the Instructions to Tenderers, if required; or
 - (b) fails or refuses to furnish the Performance Security, in accordance with the Instructions to Tenderers;

We undertake to pay to the Procuring Entity up to the above amount upon receipt of its first written demand, without the Procuring Entity having to substantiate its demand, provided that in its demand the Procuring Entity will note that the amount claimed by it is due to it, owing to the occurrence of one or both of the two conditions, specifying the occurred condition or conditions.

This guarantee will remain in force up to and including thirty (30) days after the period of tender validity, and any demand in respect thereof should reach the Guarantor not later than the said date.

[Date]

[Signature of the Guarantor]

[Witness] [Seal]

6. PERFORMANCE SECURITY FORM

To [Name of the

Procuring entity] WHEREAS...

..... [name of

tenderer]

(Hereinafter called "the tenderer") has undertaken, in pursuance of Contract No. _____ [reference number of the contract] dated _____ 20 ____ to

Supply..... [Description

services](Hereinafter called "the contract")

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

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

THEREFORE WE hereby affirm that we are Guarantors and responsible to you, on behalf of the tenderer, up to a total..... of
[amount of the guarantee in words and figures],

and we undertake to pay you, upon your first written demand declaring the tenderer 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 your 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

Signature and seal of the Guarantors

[name of bank or financial institution]

[address]

[date]

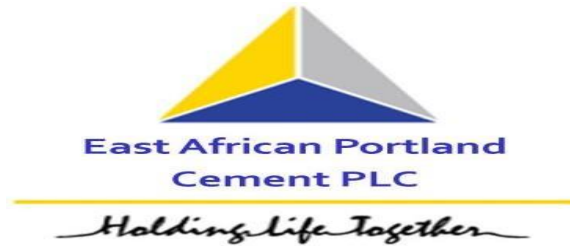
(Amend accordingly if provided by Insurance Company)

7. List of Clients

Indicate the details of companies in the private / public sector where you have undertaken/are undertaking services of similar nature where the contract sum is at least Kshs. 300,000 per month.

No.	Contact Information	Details
1	Name of company	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	
2	Name of company	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	
3	Name of company	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	
4	Name of company	
	Name of contact person	
	Designation	
	Telephone number	
	e-mail address	
	Contract amount (Kshs./Month)	

ENSURE THAT YOU HAVE PROVIDED REFERENCE LETTERS FOR ALL THE ABOVE ORGANISATION



CERTIFICATE OF TENDERER'S SITE VISIT: EAPC PLC /OT/ 286/2022- OUTSOURCING OF PACKING PLANT SERVICES.

This is to certify that,(Name of Tenderer or his representative) of the firm of,
.....(Name of Firm Tendering)

In the company of, (Name of Clients representative conducting the visit)

Visited the site in connection with Tender for Provision for Packing plant services to EAPC PLC at Athi River. Having previously studied the Contract documents, I carefully examined the site.

1. I have made myself familiar with all the local conditions likely to influence the works and cost thereof.
2. I further certify that I am satisfied with the description of the work and the explanations given by the EAPC PLC representative and that I understand perfectly the work to be done as specified and implied in the execution of the contract.

NameSigned (Tenderer or his representative)

Witnessed.....Signed (Signature of EAPC PLC representative)

Date..... Time (Stamp)