



# **TENDER DOCUMENT FOR**

**SUPPLY AND DELIVERY OF 100,000MT  
OF CLINKER**

**TENDER NO.EAPC PLC/OT/270/2022**

**CLOSING DATE: WEDNESDAY 16TH MARCH,2022**

**CLOSING TIME: 12.00 NOON**

East African Portland Cement Plc  
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**MARCH 2022**

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## SECTION I - INVITATION FOR TENDERS

**TENDER REF: EAPC PLC/OT/270/2022**

**TENDER NAME: SUPPLY AND DELIVERY OF 100,000MT OF CLINKER**

1.1 EAST AFRICAN PORTLAND CEMENT PLC invites sealed tenders from eligible candidates for the **SUPPLY AND DELIVERY OF 100,000MT OF CLINKER**

1.2 Interested eligible candidates may obtain further information from the website (<https://www.eastafricanportland.com>).

1.3 A complete tender document may be downloaded free of charge from <https://www.eastafricanportland.com>. Those who download the tender need to notify the procuring entity on email: [quotations@eapcc.co.ke](mailto:quotations@eapcc.co.ke) and Clarifications if any may be obtained [moses.sudi@eapcc.co.ke](mailto:moses.sudi@eapcc.co.ke) and [esther.wachira@eapcc.co.ke](mailto:esther.wachira@eapcc.co.ke)

1.4 Prices quoted should be net inclusive of all taxes, and delivery costs, must be in Kenya Shillings and shall remain valid for (180) days from the closing date of the tender. Bids must be accompanied by a Bid Security of Ksh.1,000,000.00 in form of a bank guarantee or Insurance Company Approved by PPRA.

1.5 Complete tender documents in “**ORIGINAL TENDER** and “**COPY OF TENDER** fully serialized and marked with the tender number and name and should be deposited in the Tender Box at Customer Care Desk Situated at the Entrance of EAST AFRICAN PORTLAND CEMENT PLC Office at Athi River; Off Namanga Road marked and addressed to **THE MANAGING DIRECTOR, P.O Box 20-00204 ATHI RIVER** so as to be received on or before **WEDNESDAY 16TH MARCH, 2022 at 12.00 NOON**

1.6 Tenders will be opened immediately thereafter in the presence of the candidates representatives who choose to attend at The Customer Care Desk At East African Portland Cement Plc Office at Athi River; Off Namanga Road after 12:00 Noon. LATE tenders shall be rejected.

1.7 EAPC PLC reserves the right to reject any tender application in whole or part. Canvassing will lead to automatic disqualification.

**Moses Sudi**  
**Head of Supply Chain**

SECTION I .....INSTRUCTION TO TENDERERS

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## **SECTION II..... INSTRUCTIONS TO TENDERERS**

### **2.1. Eligible Tenderers**

2.1.1 This Invitation for Tenders is open to all tenderers eligible as described in the Appendix to 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 66 of the Act.

2.1.3 Tenderers shall provide the qualification information statement that the tenderer (including all members of a joint venture and sub Awarded Supplier s) 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 Tenderers involved in the 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.1000/=only for documents collected from EAPC Plc offices.

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 Document**

2.3.1 The tender documents comprise the documents listed below and addenda issued in accordance with clause 2.5 of these instructions to tenderers.

- (i) Instructions to Tenderers
- (ii) General Conditions of Contract
- (iii) Special Conditions of Contract
- (iv) Schedule of Requirements (v) Details of Insurance Cover
- (vi) Form of Tender
- (vii) Price Schedules
- (viii) Contract Form
- (ix) Confidential Business Questionnaire Form
- (x) Tender security Form
- (xi) Performance security Form
- (xii) Insurance Company's Authorization Form
- (xiii) Declaration Form

2.3.2 The Tenderer is expected to examine all instructions, forms, terms and specification 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 Tender Documents**

2.4.1 A Candidate making inquiries of the tender documents may notify the Procuring entity by post, fax or by email at the procuring 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 seven (7) days prior to the deadline for the submission of the 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 candidates 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.

2.4.3 Preference where allowed in the evaluation of tenders shall not exceed 15%

## **2.5 Amendment of Tender 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 and 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 Tenders**

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**

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

- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 2.8, 2.9 and 2.12 below

- (b) Documentary evidence established in accordance with paragraph 2.1.2 that the tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) Tender security furnished in accordance with paragraph 2.12 (if applicable)
- (d) Declaration Form.

## **2.8. Form of Tender**

2.8.1 The tenderer shall complete the Tender Form and the Price Schedule furnished in the tender documents, indicating the services to be provided.

## **2.9. Tender Prices**

2.9.1 The tenderer shall indicate on the form of tender and the appropriate Price Schedule the unit prices and total tender price 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

2.9.4 Rejected, pursuant to paragraph 2.20.5

## **2.12. Tender Currencies**

2.12.1 Prices shall be quoted in Kenya Shillings

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

2.11.1 Pursuant to paragraph 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 it's tender is accepted.

2.11.2 The documentary evidence of the tenderer's 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 Appendix to Instructions to Tenderers.

2.12.2 The tender security shall be of Ksh.1,000,000.00 in form of a bank guarantee or Insurance Company Approved by PPRA. .

2.12.3 The tender security is required to protect the Procuring entity against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 2.12.7

2.12.4 The tender security shall be denominated in Kenya Shillings or in another freely convertible currency, and shall be in the form

- a) A bank guarantee.
- b) Performance Indemnity
- c) Such insurance guarantee approved by the EAPC Plc

2.12.5 Any tender not secured in accordance with paragraph 2.12.1. and 2.12.3 shall be rejected by the Procuring entity as non-responsive, pursuant to paragraph 2.20.5

2.12.6 Unsuccessful Tenderer's tender 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

2.12.7 The successful Tenderer's tender security will be discharged upon the tenderer signing the contract, pursuant to paragraph 2.29, and furnishing the performance security, pursuant to paragraph 2.30

2.12.8 The tender security may be forfeited:

- (i) if a tenderer withdraws its tender during the period of tender validity.
  - (a) in the case of a successful tenderer, if the tenderer fails:
    - (i) to sign the contract in accordance with paragraph 2.29 or
    - (ii) to furnish performance security in accordance with paragraph 2.30.

(b) If the tenderer reject correction of an arithmetic error in the tender.

### **2.13. Validity of Tenders**

2.13.1 Tenders shall remain valid for 180 days after date of tender opening pursuant to paragraph 2.24. A tender valid for a shorter period shall be rejected by the Procuring entity as non-responsive.

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 granting the request will not be required nor permitted to modify its tender.

### **2.14. Format and Signing of Tenders**

2.14.1 The tenderer shall prepare an original and a copy 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**

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

2.15.2 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 and name in the invitation to tender and the words:

**“DO NOT OPEN BEFORE WEDNESDAY 16TH MARCH,2022 at 12.00 Noon**

2.15.3 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”.

2.15.4 If the outer envelope is not sealed and marked as required by paragraph 2.15.2, the Procuring entity will assume no responsibility for the tender’s misplacement or premature opening.

## **2.16. Deadline for Submission of Tenders**

Tenders must be received by the Procuring entity at the address specified under paragraph 2.15.2 not later than **WEDNESDAY 16TH MARCH, 2022 at 12.00 noon**

2.16.1 The Procuring entity may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 2.5.3 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.

2.16.2 Bulky tenders which will not fit the tender box shall be received by the procuring entity 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 tenders, is received by the Procuring entity prior to the deadline prescribed for 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 fax or email 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. Withdrawal of a tender during this interval may result in the Tenderer's forfeiture of its tender security, pursuant to paragraph 2.12.7.

#### **2.24. Opening of Tenders**

The Procuring entity will open all tenders in the presence of tenderers' representatives who choose to attend on **WEDNESDAY 16TH MARCH, 2022 at 12.00 Noon**

2.24.1 And in the location specified in the invitation for tenders. The tenderers' representatives who are present shall sign a register evidencing their attendance.

2.24.2 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.

2.24.3 The Procuring entity will prepare minutes of the tender opening, which will be submitted to 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 of the tender 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 sureties 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 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 non-conformity 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 2.20, 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 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 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 2.22.3.

- (a) Operational plan proposed in the tender;
- (b) deviations in payment schedule from that specified in the Special Conditions of Contract

2.22.3 Pursuant to paragraph 2.22.2. the following evaluation methods will be applied.

(a) Operational Plan

- (i) 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

- (i) Tenderers shall state their tender price for the payment on 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.

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

## **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 Post-qualification**

2.24.1 The Procuring entity will verify and 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 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 2.11.2, 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.

## **2.25 Award Criteria**

2.25.1 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.

2.25.2 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.

2.26. Procuring entity's Right to accept or Reject any or all Tenders

2.26.1 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 tenders is responsive, the Procuring entity shall notify each tenderer who submitted a tender.

2.26.2 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.

2.26.3 A tenderer who gives false information in the tender document about is 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.

#### **2.27 Notification of Award**

2.27.1 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.

2.27.2 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 2.9. Simultaneously the other tenderers shall be notified that their tenders were not successful.

2.27.3 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 2.29 the Procuring entity will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 2.12

#### **2.28 Signing of Contract**

2.28.1 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.

2.28.2 Within Seven (7) days of receipt of the Contract Form, the successful tenderer shall sign and date the contract and return it to the Procuring entity.

2.28.3 The contract will be definitive upon its signature by the two parties.



2.28.4 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.

### **2.29 Performance Security**

2.29.1 The successful tenderer shall furnish the performance security in accordance with the Conditions of Contract, in a form acceptable to the Procuring entity.

2.29.2 Failure by 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 tender or call for new tenders.

### **2.30 Corrupt or Fraudulent Practices**

2.30.1 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.

2.30.2 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

2.30.3 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 Tenderers**

The following information for the procurement of SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED shall complement, supplement, or amend, the provisions on 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.

<b>Instruction to tenderers reference</b>	<b><i>Particulars of Appendix to instructions to tenderers</i></b>
2.1	<i>ELIGIBLE AND QUALIFIED RELIABLE SUPPLIERS / OF CLINKER AS PER EAPC PLC SPECIFICATIONS</i>

	<i>PROVIDED.</i>
2.15.2 (b)	<i>TENDER SUBMISSION DATE AND TIME:-WEDNESDAY 16TH MARCH,2022 at 12.00 noon</i>
2.25 (a)	Mandatory Requirements
2.25 (b)	<b>Technical Evaluation</b> Only firms scoring 70 points or more will be considered for Financial Evaluation. The responsive firm that offers the lowest evaluated price will be considered for contract award
2.15.2 (b)	<b>Closing Date of The Tender Is,</b> <i>WEDNESDAY 16TH MARCH,2022 at 12.00 noon</i>

### SECTION III - GENERAL CONDITIONS OF CONTRACT

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## SECTION III GENERAL CONDITIONS OF CONTRACT

### 3.1. Definitions

3.1.1 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 tenderer including any documents, which the tenderer is required to provide to the Procuring entity under the Contract.
- (d) "The Procuring entity" means the organization procuring the services under this Contract
- (e) "The Awarded Supplier " means the organization or firm providing the services under this Contract.
- (f) "GCC" means the General Conditions of Contract contained in this section.
- (g) "SCC" means the Special Conditions of Contract
- (h) "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 the contract

### **3.3. Standards**

3.3.1 The services provided under this Contract shall conform to the standards mentioned in the schedule of requirements.

### **3.4. Use of Contract Documents and Information**

3.4.1 The Awarded Supplier shall not, without the Procuring entity's prior written consent, disclose the Contract, or any provision thereof, or any specification, plan, drawing, pattern, sample, or information furnished by or on behalf of the Procuring entity in connection therewith, to any person other than a person employed by the Awarded Supplier in the performance of the Contract.

3.4.2 The Awarded Supplier shall not, without the Procuring entity's prior written consent, make use of any document or information enumerated in paragraph 2.4.1 above.

3.4.3 Any document, other than the Contract itself, enumerated in paragraph 2.4.1 shall remain the property of the Procuring entity and shall be returned (all copies) to the Procuring entity on completion of the contract's or performance under the Contract if so required by the Procuring entity.

### **3.5. Patent Rights**

3.5.1 The Awarded Supplier 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.

#### **3.6 Performance Security**

3.4.1 Within thirty (30) days of receipt of the notification of Contract award, the successful tenderer shall furnish to the Procuring entity the performance security where applicable in the amount specified in SCC

3.6.2 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.

3.6.3 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:

- a) A bank guarantee.
- b) Such insurance guarantee approved by the EAPC Plc.

3.6.4 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 Awarded Supplier's performance of obligations under the Contract, including any warranty obligations, under the Contract.

### **3.7. Delivery of services and Documents**

3.7.1 Delivery of the services shall be made by the Awarded Supplier in accordance with the terms specified by the procuring entity in the schedule of requirements and the special conditions of contract

### **3.8. Payment**

3.81. The method and conditions of payment to be made to the Awarded Supplier under this Contract shall be specified in SCC and as per EAPC PLC standard 45 days after Invoice.

3.82. Payment shall be made promptly by the Procuring entity, but in no case later than ninety (90) days after submission of an invoice or claim by the Awarded Supplier

### **3.9. Prices**

3.9.1 Prices charges for the Services performed under the Contract shall not, with the exception of any price adjustments authorized in SCC vary from the prices quoted by the tenderer in its tender or in the procuring entity's request for tender validity extension the case may be. No variation in or modification to the terms of the contract shall be made except by written amendments signed by the parties.

3.9.2 Contract price variations shall not be allowed for contracts not exceeding one year (12 months)

3.9.3 Where contract price variation is allowed the variation shall not exceed 15% of the original contract price

**3.9.4** Price variation requests if approved by relevant authority shall be processed by the procuring entity within 30 days or less of receiving the request or as per agreement with EAPC PLC.

### **3.12. Assignment**

3.12.1 The Awarded Supplier shall not assign, in whole or in part, its obligations to perform under this Contract, except with the Procuring entity's prior written consent.

#### **3.11. Termination for Default**

3.4.2 The Procuring entity may, without prejudice to any other remedy for breach of Contract, by written notice of default sent to the Awarded Supplier terminate this Contract in whole or in part:

- (a) If the Awarded Supplier 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 Awarded Supplier fails to perform any other obligation(s) under the Contract
- (c) If the Contract in the judgment of the Procuring entity has engaged in corrupt or fraudulent practices in competing for or in executing the contract

3.11.2 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 un-delivered and the Awarded Supplier shall be liable to the Procuring entity for any excess costs for such similar services. However, the Awarded Supplier shall continue performance of the contract to extent not terminated.

### **3.12. Termination for Insolvency**

3.12.1 The Procuring entity may at any time terminate the contract by giving written notice to the Awarded Supplier if the Awarded Supplier becomes bankrupt or otherwise insolvent. In this event, termination will be without compensation to the Awarded Supplier, provided that such termination will not prejudice or affect any right of action or remedy, which has accrued or will accrue thereafter to the procuring entity.

### 3.13. Termination for Convenience

3.13.1 The Procuring entity by written notice sent to the Awarded Supplier 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 entities convenience, the extent to which performance of the Awarded Supplier 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 the procuring entity may elect to cancel the services and may be pay to the Awarded Supplier an agreed amount for partially completed services.

### 3.14 Resolution of Disputes

3.14.1 The procuring entity and the Awarded Supplier shall make every effort to resolve amicably by direct informal negotiations and disagreement or disputes arising between them under or in connection with the contract

3.14.2 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.

### 3.15. Governing Language

3.15.1. 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.

### 3.16. Applicable Law

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

### 3.17 Force Majeure

3.17.1 The Awarded Supplier 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.

### 3.24 Notices

3.24.1 Any notices given by one party to the other pursuant to this contract shall be sent to the other party by post or through email and confirmed in writing to the other party's address specified in the SCC.

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

## SECTION IV - SPECIAL CONDITIONS OF CONTRACT

### Notes on Special Conditions of Contract

1. The clauses in this section are intended to assist the procuring entity in providing contract-specific information in relation to corresponding clauses in the General Conditions of Contract
2. The Provisions of Section IV complement the General Conditions of Contract included in Section III, specifying contractual requirements linked to the special circumstances of the procuring entity and **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER SPECIFICATIONS PROVIDED IN THE TENDER DOCUMENT**. In preparing Section IV, the following aspects should be taken into consideration.
  - (a) Information that complement provisions of Section III must be incorporated; and
  - (b) Amendments and/or supplements to provisions of Section III, as necessitated by the circumstances of the specific insurance cover required must also be incorporated.
3. Where there is a conflict between the provisions of the special conditions of contract and the provisions of the general conditions of contract, the provisions of the special conditions of contract shall prevail over the provisions of the general conditions of contract.

4. Any clause to be included in this section must be consistent with the applicable public procurement law and regulations.

**4.1. CONDITIONS TO BE MET BY THE BIDDER/S THAT WILL FORM PART OF THE EVALUATION AND AWARD CRITERIA**

The tenderers are required to provide the following details pertaining to their company

**4.1.1 Valid Certificate of Registration/Incorporation**

**4.1.2 Valid Tax compliance Certificate**

**4.1.3 Current Valid business permit**

**4.1.4 Valid Pin and VAT Certificate**

**Special Conditions of Contract as relates to the General Conditions of Contract**

<b>Reference of general conditions of contract</b>	<b>Special condition of contract</b>
3.6 Performance security	10% of the contract value after award
3.7 Delivery of Services	As per bidding document
3.8 Payment Terms	As per agreement with EAPC PLC
3.9 Price adjustment	NOT allowed
3.16 Applicable law	Kenyan Law
3.17 Duration	Two (2) year, from Contract sign date, may be renewed for further to a maximum period of One (1) year subject to satisfactory performance.

3.24 Notices	<b>To be sent to The Attention:-  THE MANAGING DIRECTOR  EAST AFRICAN PORTLAND CEMENT PLC  P.O. BOX 20-00204 ATHI RIVER; OFF  NAMANGA ROAD. TEL. 0709-835000/001;  0709-855-000/0709-855-001</b>
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## SECTION V - SCHEDULE OF REQUIREMENTS

### 1. EVALUATION CRITERIA

The bids will be evaluated in three Phase Vis – (i) Mandatory Requirement – These are mandatory requirement and any bidder who will not submit any other requirement will be termed as non- responsive.

Only those bidders who meet the Mandatory requirements will be proceed to the Technical evaluation.

### STAGE 1 - MANDATORY REQUIREMENTS, COMPLIANCE & CHECKLIST

No	CRITERION	MANDATORY YES/NO
1.	Registration Certificate/Letter of Incorporation	YES
2.	Company Profile to include management team, Board of directors including submission of CR 12	YES
3.	Business Registration /Trade Business Permit.	YES
4.	Valid Tax Compliance Certificate	YES
5.	Audited Financial Accounts for the last 2 (two) years (2018, 2019 And 2020) signed by a certified auditor(s) firm/auditor	YES
6.	Signed Form of Tender	YES
7.	Tender Bid Bond Security of Kshs.1,000,000.00	YES
8.	Completed Confidential Business Questionnaire	YES

9.	Complete form of Debarment or provide a write up showing that the firm is not debarred	YES
10.	Recommendation letter or proof of previous experience in similar assignment from at least 2 Clients for the last 2 years	YES
11.	A completed (signed & stamped) a self-declaration that the bidder/person will not engage in any corrupt or Fraudulent practice?	YES
12.	A completed (signed & stamped) a self-declaration that the bidder/person is not debarred in the matter of Public procurement? (Bidder to clearly do a write up on declaring that they are not debarred.	YES
13.	Must serialize each bid document including attachments	YES
14.	Must provide original tender and copy of tender and a soft copy of the tender document	YES

#### **1. TECHNICAL EVALUATION**

**The following are EAPC PLC requirement for the SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER SPECIFICATIONS PROVIDED**

#### **Notes for preparing Schedule of Requirements.**

The schedule of Requirements shall be included in the tender documents by the procuring entity and shall cover, at the minimum, a description of **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER SPECIFICATIONS PROVIDED** to be provided and full particulars of the same.

1. The objectives of the schedule of requirements is to provide sufficient information to enable tenderers to prepare their tenders comprehensively, efficiently and accurately. In particular the price schedule for which a form is provided in Section VI must be carefully completed.
2. In addition, the schedule of requirements together with the price schedule should serve as a basis in the event of services variation at the time of award of contract pursuant to instruction to tenderers paragraph 2.26.

No	Item Description	Qty Required	Conformity to Specifications
1	SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED IN SECTION "TECHNICAL SPECIFICATIONS"	100,000 MT	

**TERMS OF REFERENCE FOR SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER SPECIFICATIONS PROVIDED BELOW.**

1. These specifications describes the basic requirements of goods. Bidders are requested to submit with their offers the detail specifications, drawings, catalogues, etc., for the products they intend to supply.
2. Bidders must indicate on the specifications sheets whether the material 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, if any, shall be explained in details in writing with the offer, with supporting data such as calculation sheets etc. the procuring entity reserves the right to reject the products, if such deviations shall be found critical to the use and operation of the products.

**CLINKER SPECIFICATIONS**

<b>EAPC PLC CLINKER SPECIFICATIONS</b>				
<b>PARAMETER</b>	<b>UNIT</b>	<b>EAPCC REQUIREMENT</b>	<b>BIDDER PROVIDED SPECIFICATIONS ( Bidders To Clearly Indicate )</b>	<b>TOTAL SCORE</b>
C3S	%	>55		10
C2S	%	15-20		5
Free CaO	%	0.5 – 2.5		5
C3A	%	4.0– 9.0		5
C4AF	%	6.0-11		5
LSF	%	>0.950		5
<b>Volatiles/ Impurities</b>				
MgO	%	3Max		10
SO3	%	0.65Max		6
K2O	%	0.5Max		6
Na2O	%	0.3Max		6
Chlorides	%	0.02Max		6
<b>Physical Parameters</b>				
Liter weight	g/l	1250-1350		5
1day Strength	Mpa	≥10		10
2days Strength	Mpa	≥20		6
28 days Stength	Mpa	52.0		10
<b>Total Score Mark</b>				<b>100</b>

**OTHER REQUIREMENT FOR THE BIDDERS.**

- 1. BIDDERS MUST PROVIDE CERTIFICATE OF ANALYSIS FROM AN ACCREDITED LABORATORY WITH SPECIFIC RESULTS AND NOT A RANGE. ANY OFFER WITHOUT TEST CERTIFICATE FOR THE CLINKER THEY INTEND TO SUPPLY WILL BE REJECTED AS INDICATED ON THE MANDATORY REQUIREMENT.**
- 2. BIDDER MUST SPECIFY BOTH THE CHEMICAL AND PHYSICAL PARAMETERS OF THE CLINKER THEY ARE OFFERING IN THE BIDDER'S SPECIFICATIONS COLUMN SHOWN ABOVE**

3. EAPC PLC ALLOW CONSIGNMENT STOCKING OF CLINKER WHEREBY THE AWARDED BIDDERS WILL DELIVER THEIR CLINKER AT AN AREA ALLOCATED TO THEM BY EAPC PLC AND EAPC PLC WILL ONLY PAY FOR WHAT IS CONSUMED.

**(A) Technical Capability and Evaluation Criteria**

**1. TECHNICAL EVALUATION CRITERIA**

<b>No</b>	<b>CRITERION / REQUIREMENT</b>	<b>SCORE</b>
<b>1</b>	Conformity to specifications / Bidders Must attach a certificate of analysis from a either SGS, INTERTEK, or any internationally accredited Laboratory	<b>48</b>
<b>2</b>	<b>Financial Capacity/ capability : Turnover of not less than 200 million and working capital ( Bidders must provide audited financial statement for the last Two (2) years to determine the Liquidity Ratio – And attach letter of comfort from the Bank.</b> Profitability Margin – 6 Above 25% - 6 Marks 15-24% - 5 Marks 7.5-14% - 2 Marks Less than 7.4% - 0 marks Liquidity Ratio – 4 2.1-4 Marks 1.1 – 3 Marks Less than 1:1 = 0	<b>30</b>
<b>3</b>	Past Experience in Supplying similar items in nature and value (Attach evidence – at least for 2 clients - LPO or award	<b>20</b>
<b>4</b>	Bidder confirmation to be able to deliver the material through consignment stocking upon agreement with EAPC PLC	<b>2</b>
<b>TOTAL</b>		<b>100 Marks</b>

**NB: Minimum pass mark score for a bidder to be considered successful is 70/100**

**FINANCIAL REQUIREMENT / CRITERIA**

**The Financial offer for the Bidders who will have passed the Technical evaluation will be evaluated as follows**

**PRICE SCHEDULE - Commercial evaluation (30marks)**

No	Item Description	Quantity	Unit Price (KES) Exclusive VAT	VAT	Total Price (KES) Exclusive VAT.	Score Mark
1	PRICE (IN MT)	100,000 MT				10
No	Requirement		Bidder Terms statement to be indicated below		Score mark	
2	PAYMENT TERMS (Bidder to comply with EAPC PLC terms) – after every delivery of 2,500 MT or 45 Days after delivery.				5	
3	Validity of Price ( Bidder to provide statement clearly indicating that they will hold their tender price for the entire contract period or after fully delivery of quantity awarded )				5	
4	Delivery period- Immediately after acknowledging Award Letter or after LPO award ) – Bidder to have capacity & capability to deliver not less than <b>1800</b> MT per day or hold at least 10,000 MT at any given time at a clinker shed area reserved within EAPC PLC.				10	
<b>Total score</b>					30 Marks	

#### SUMMARY OF OFFER

CATEGORY	DESCRIPTION SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER	UNIT PRICE ( PER TON) ( KES) / (USD)	VAT AMOUNT ( KES) / (USD)	TOTAL FOR ALL 100,000 MT OF CLINKER. INCLUSIVE VAT) ( KES) / (USD)
1	SUPPLY AND DELIVERY 100,000MT OF CLINKER			



## ADDITIONAL INFORMATION TO THE BIDDERS

1. EAPC PLC owns a CLINKER storage shed for storing / holding delivered CLINKER within the plant in Athi River. The awarded bidder shall be required to clear the cargo from the port and deliver to EAP PLC -Athi River plant.
2. Bidders to have capacity to deliver Minimum of 1800 Tons per day and payment shall be made after every 2,500MT delivered or as per agreement with EAPC PLC.
3. The contract for supply and delivery of the **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER SPECIFICATIONS PROVIDED** shall be for a period of 2 years (Renewable once in 1 (One ) year upon satisfactory performance.
4. The contract award shall be on consignment stocking, meaning awarded bidder will supply their CLINKER in bulk at a place reserved for them and payment shall be upon consumed quantities.

### Recommendation for Award

1. Award shall be to the most responsive 4 (four) firms who will be successful in their Mandatory and Technical evaluation and after a successful undertaking of due diligence by East African Portland Cement Plc if the committee find the need to reconfirm on offered bid.
2. The 2<sup>nd</sup>, 3<sup>rd</sup> and 4<sup>th</sup> bidders will be requested to Match the price of the lowest bidder.

### PLEASE NOTE AND COMPLY WITH THE FOLLOWING:

- i. All prices to be reflected as follows - Unit Price, VAT Amount and Total inclusive VAT & other applicable taxes.
- ii. In case of discrepancy between unit price and total, the unit price shall prevail.
- iii. Contract period is for Two (2) years from date of award and contract signing and subject to renewing the contract for another ONE (I) year subject to annual review on satisfactory performance within the contract period.

Name of tenderer's representative authorized to sign:

\_\_\_\_\_ Name  
Signature & date Official Stamp

## SECTION VI - STANDARD FORMS

Notes on the standard Forms

**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.

1. **Price Schedule Form** - The price schedule form must similarly be completed and submitted with the tender.
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 or in another format acceptable to the procuring entity.
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 procuring entity.

**Form of Tender**

To:

Date

Name and address of procuring entity

Tender No. **EAPC PLC/OT/270/2022**

Tender Name : **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED**

Gentlemen and/or Ladies:-

Having examined the Tender documents including Addenda No. (Insert numbers) .....

the receipt of which is hereby duly acknowledged, we the undersigned, offer to provide **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED** under this tender in conformity with the said Tender document for the sum of

.....  
.....[Total Tender amount in words and figures] 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 provide **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER SPECIFICATIONS PROVIDED** in accordance with the conditions of the tender.

3. We agree to abide by this Tender for a period of .....[number] days from the date fixed for Tender opening of the Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2022

\_\_\_\_\_

[Signature]

[In the capacity of]

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

**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 the **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED** and has accepted a tender by the tenderer for the supply of the services in the sum of

\_\_\_\_\_ [contract price in words in figures] (hereinafter called “the Contract Price”).

NOW THIS AGREEMENT WITNESSTH AS FOLLOWS:-

In this Agreement words and expressions shall have the same meanings as are respectively assigned to them in the Conditions of Contract referred to.

1. 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 Details of cover
  - (d) the General Conditions of Contract
  - (e) the Special Conditions of Contract; and
  - (f) the Procuring entity’s Notification of Award
2. 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 **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED** and to remedy defects therein in conformity in all respects with the provisions of the Contract.
3. The Procuring entity hereby covenants to pay the tenderer in consideration of the provision of the services and the remedying of defects therein, the Contract Price or such other sum as may become payable under the provisions of the contract at the times and in the manner prescribed by the contract.

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 \_\_\_\_\_

**CONFIDENTIAL BUSINESS QUESTIONNAIRE**

You are requested to give the particular indicated in Part 1 and either Part 2(a), 2(b), or 2(c) Which ever applies to your type of business

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

Part          General:

Business Name

.....

Location of business premises

.....

Plot No. .... Street/Road

.....

Postal Address ..... Tel.No. .... Fax ..... Email .....

Nature of business .....

Registration Certificate No. ....

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

.....

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

Part 2(a) – Sole Proprietor:

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

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

Citizenship details.....

Party 2(b) – Partnership

Give details of partners as follows

	Name	Nationality	Citizenship	Details	Shares
1.	.....	.....	.....	.....	.....
2.	.....	.....	.....	.....	.....
3.	.....	.....	.....	.....	.....
4.	.....	.....	.....	.....	.....
5.	.....	.....	.....	.....	.....

Part 2© – Registered Company:

Private or public

.....

State the nominal and issued capital of the company –

Nominal Kshs..

..... Issued

Kshs.....

Give details of all directors as follows

Name Nationality Citizenship Details Shares

1.

.....

..... 2.

.....

..... 3.

.....

..... 4.

.....

.....

5.

.....

Date..... Signature of Tenderer

.....

If a citizen, indicate under "Citizenship Details" whether by Birth, Naturalization or Registration

## TENDER SECURITY FORM

Whereas [*name of Bidder*] (hereinafter called <the tenderer> has submitted its bid dated [*date of submission of bid*] for the provision of **SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED**(hereinafter called <the tender>

KNOW ALL PEOPLE by these presents that WE [*name of bank*] of [*name of country*], having our registered office at [*name of procuring entity*] (hereinafter called <the procuring entity> in the sum of [*state the amount*] for which payment well and truly to be made to the said procuring entity, the Bank binds itself, its successors, and \_\_\_\_\_ assigns by these presents. Sealed with the Common Seal of the said Bank this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_\_

35. THE CONDITIONS of this obligation are:1. If the tenderer withdraws its tender during the period of tender validity specified by the procuring entity on the Form; or

2. If the tender, having been notified of the acceptance of its tender by the procuring entity during the period of tender validity
  - (a) fails or refuses to execute the Contract Form, if required; or
  - (b) fails or refuses to furnish the performance security, in accordance with the Instructions to tenders.

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 conditions, specifying the occurred condition(s)

This tender 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 Bank not later than the above stated date.

[Authorized Signatories and official stamp of the Bank]

*(Amend accordingly if provided by Insurance Company)*

**PERFORMANCE SECURITY FORM**

To: .....

*[Name of 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 of SUPPLY AND DELIVERY OF 100,000 MT OF CLINKER AS PER EAPC PLC SPECIFICATIONS PROVIDED]* (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 a 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 of money 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*      of      *financial*      *institution*      ]  
*[Address]*

*[Date]*

*(Amend accordingly if provided by Insurance Company)*



**LETTER OF NOTIFICATION OF AWARD**

Address of Procuring Entity

\_\_\_\_\_  
\_\_\_\_\_

To: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Tender No. \_\_\_\_\_

Tender Name \_\_\_\_\_

This is to notify that the contract/s stated below under the above mentioned tender have been awarded to you.

\_\_\_\_\_  
\_\_\_\_\_

Please acknowledge receipt of this letter of notification signifying your acceptance.

The contract/contracts shall be signed by the parties within 30 days of the date of this letter but not earlier than 14 days from the date of the letter

1. You may contact the officer(s) whose particulars appear below on the subject matter of this letter of notification of award.

*(FULL PARTICULARS)*

\_\_\_\_\_  
\_\_\_\_\_

**SIGNED FOR DIRECTOR-GENERAL**

**SELF DECLARATION FORM**

**REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)**

**SELF DECLARATION THAT THE PERSON/TENDERER IS NOT DEBARRED IN THE MATTER OF THE PUBLIC PROCUREMENT AND ASSET DISPOSAL ACT 2015.**

I, .....of P.O. Box.....being a resident of.....in the republic of.....do hereby make a statement as follows:-

1. THAT I am the Company Secretary/ Chief Executive/ Managing Director/ Principal Officer/ Director of..... (insert name of the Company) who is a Bidder in respect of **Tender No.** ..... for.....(insert tender title/description) for..... (insert name of Procuring entity) and duly authorized and competent to make this statement.
2. THAT the aforesaid Bidder, its Directors and subAwarded Suppliers have not been debarred from participating in procurement proceeding under Part IV of the Act.
3. THAT what is deposed to hereinabove is true to the best of my knowledge, information and belief.

.....  
.....

(Title) (Signature) (Date)  
Bidder Official Stamp

**SELF DECLARATION FORMS  
REPUBLIC OF KENYA**

**PUBLIC PROCUREMENT REGULATORY AUTHORITY (PPRA)**

**SELF DECLARATION THAT THE PERSON/TENDERER WILL NOT ENGAGE  
IN ANY CORRUPT OR FRAUDULENT PRACTICE**

I,.....of P.O. Box.....being a resident  
of.....in the Republic of.....do hereby make a statement as  
follows:-

1. THAT I am the Company Secretary/ Chief Executive/ Managing Director/  
Principal Officer/ Director of.....  
(insert name of the Company) who is a Bidder in respect of **Tender No.**  
..... for.....(insert tender  
title/description) for..... (insert name of Procuring entity)  
and duly authorized and competent to make this statement.

THAT the aforesaid Bidder, its servants and/or agents / subAwarded Supplier s  
will not engage in any corrupt or fraudulent practice and has not been requested  
to pay any inducement to any member of the Board, Management, Staff and/or  
employees and/or agents of..... (insert name of the  
Procuring entity) which is the Procuring entity.

2. THAT the aforesaid Bidder, its servants and/or agents / subAwarded Supplier s  
have not offered any inducement to any member of the Board, Management,  
Staff and/or employees and/or agents of..... (insert name of  
the Procuring entity).

3. THAT the aforesaid Bidder will not engage / has not engaged in any corrosive  
practice with other bidders participating in the subject tender.

THAT what is deposed to hereinabove is true to the best of my knowledge,  
information and belief.

.....  
.....  
.....  
(Title) (Signature) (Date)  
Bidder Official Stamp

REPUBLIC OF KENYA

PUBLIC PROCUREMENT ADMINISTRATIVE REVIEW BOARD

APPLICATION NO.....OF.....20.....

BETWEEN

.....APPLICANT

AND

.....RESPONDENT (*Procuring Entity*)

Request for review of the decision of the..... (*Name of the Procuring Entity*) of  
.....dated the...day of .....20.....in the matter of Tender No.....of  
.....20...

**REQUEST FOR REVIEW**

I/We.....,the above named Applicant(s), of address: Physical address.....Fax No.....Tel. No.....Email ....., hereby request the Public Procurement Administrative Review Board to review the whole/part of the above mentioned decision on the following grounds , namely:-

1.

2.

etc.

By this memorandum, the Applicant requests the Board for an order/orders that: -

1.

2. etc

SIGNED .....(Applicant)

Dated on.....day of ...../...20...

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FOR OFFICIAL USE ONLY

Lodged with the Secretary Public Procurement Administrative Review Board on ..... day of .....20.....

SIGNED