

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

TENDER DOCUMENT

For

**SUPPLY OF CLINKER. TENDER NO.
EAPCC/CLINKER/00 1/2008**

EAST AFRICAN PORTLAND
CEMENT COMPANY
P.O. BOX 40101-00100
NAIROBI, Kenya

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

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EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Section A. Tender Notice

TENDER NO. - EAPCC/CLINKER/001/2008 FOR SUPPLY OF CLINKER

The East African Portland Cement Company (EAPCC) Limited invites sealed Tenders from interested and eligible firms for the supply of approximately 450,000 Tonnes of **Clinker** for a period of three years starting from July 2008 to June 2011

Tender Document with detailed specifications may be obtained from:

**THE MANAGING DIRECTOR,
EAST AFRICAN PORTLAND CEMENT COMPANY LTD,
P.O. BOX 40101-00100, GPO NAIROBI.**

EMAIL: info@eapcc.co.ke

Website: www.eastafricanportland.com

Upon payment of **nonrefundable fee of Kshs 5,000 or equivalent, per set of documents paid through cash or a banker's cheque payable to East African Portland Cement Co. Ltd.**

Eligible tenderers must: -

1. Have an annual clinker turnover of at least 300,000 Metric Tonnes
2. Be duly Incorporated Company
3. Provide certified copies of incorporation documents, the duly filed current annual return and any changes filed thereafter
4. Provide certified Audited accounts for the last two (2) years
5. Provide proof of shipping logistics (where applicable - see paragraph 10.3 page 9)
6. Provide a comprehensive company profile
7. Give at least two (2) business references
8. Be manufacturers of Clinker or be dealers or agents of manufacturers of Clinker.

(Proof of this to be provided)

This is a two envelope tender. Envelope A shall be marked "Technical Offer" and Envelope B shall be marked "Commercial Offer". Only Envelope A shall be opened on the tender opening date. Tenders shall be subjected to Technical evaluation first and those who qualify shall be subjected to Commercial evaluation.

Envelopes A and B shall be enclosed in one plain, sealed envelope, clearly marked Tender number **EAPCC/CLINKER/001/2008**, which should be addressed and sent to:

**THE MANAGING DIRECTOR
EAST AFRICAN PORTLAND CEMENT COMPANY LTD
P.O. BOX 40101-00100 GPO,
NAIROBI - KENYA.**

Or be deposited in the Tender Box in the reception area of East African Portland Cement Company Headquarters Main Building, at Athi River off Namanga Road, so as to reach **on or before the deadline, Thursday 28th February 2008 at 11.00 a.m.** local time.

Tenderers are required to submit together with the Tender, a Bid Bond/Tender Security equivalent to 2% of the Tender bid value, issued by a reputable Kenyan Bank or reputable international bank. Tenders should remain valid for ninety (90) days from the closing date of the Tender and the Bid bond/Tender Security shall remain valid for one twenty (120) days from the closing date of the tender. Tenderers who shall not fulfill these two conditions shall be automatically disqualified.

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Tenderers or their representatives are free to attend the tender opening at EAPCC Board Room, EAPCC Headquarters, at Athi River off- Namanga Road **at 11.00 a.m. on the closing date of the Tender, i.e. Thursday 28th February 2008 at 11.00 a.m.** local time.

The East African Portland Cement Company Ltd reserves the right to accept or reject any tender either in whole or in part without giving reasons for either rejection or acceptance.

Canvassing for the tender by the tenderer or by proxy shall lead to automatic disqualification of their tender

This advertisement is also available at our website

Ag. MANAGING DIRECTOR.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Section B

Invitation for Tenders

To _____ Date _____

Dear Sir/Madam:

TENDER FOR SUPPLY OF CLINKER

We hereby invite tenderers to submit sealed tenders for the supply of approximately 450,000 tonnes of Clinker for a period of three years starting from July 2008 to June 2011

Completed Tender documents enclosed in a plain, sealed envelope, clearly marked only: -

Tender for the Supply of Clinker
Tender No EAPCC/CLINKER/001/2008

Should be addressed and sent to:

The Managing Director
East African Portland Cement Company Ltd
P.O. Box 40101 - 00100 GPO
NAIROBI

Or be deposited in the Tender Box in the Reception Area of EAPCC Headquarters Main Building, at Athi River off Namanga Road, so as to reach him **on or before the deadline, 11.00 am on the closing date . Thursday, 28th February 2008.**

Tender documents shall be submitted in two separate envelopes clearly marked A "**Technical Offer**" and B "**Commercial Offer**", and both must be enclosed in an outer envelope which shall bear the tender number and be properly addressed

Tenders must be accompanied by a tender security of **2%** issued by a reputable Kenyan Bank or international Bank. The Tender and Bid Bond should remain valid for ninety (90) days from the closing date of the Tender.

Tenders will be opened immediately thereafter in the presence of the representatives who choose to attend the opening at 11.00 a.m. . **Thursday 28th February 2008** at the EAPCC Board Room, EAPCC Headquarters, at Athi River off-Namanga Road.

Note: Only envelope "A" shall be opened on the closing date of the tender. Envelope "B" shall be opened on a date to be communicated to those tenderers who pass the technical evaluation.

Further information may be obtained from: **The Procurement Manager, P.O. Box 40101-00100 GPO, NAIROBI, Phone number, + 254 45-22777, 20627 Fax No. +254 45 20406, Email info@eapcc.co.ke.**

Yours faithfully,
NdegwaKKagio

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Section C. General Information

1. Introduction

East African Portland Cement Company Ltd. invites sealed Tenders from eligible and qualified companies to supply approximately 450,000 metric tonnes of clinker to be supplied in three years starting from July 2008 to June 2011.

DEFINITIONS

'Day' means a working day

"Employer" means East African Portland Cement Company Limited (The Employer) represented by the Managing Director.

"Tenderer" means any eligible firm or company submitting a Tender in accordance with the instructions, conditions and specifications as set out in this Tender document.

"Prospective Tenderer" means any firm or company, which has purchased a tender document.

"Tender Notice" means the published tender advertisement.

"Deadline for submission of tenders" means the time and date specified in the tender notice.

1. Eligible Tenderers

1.1 This Invitation for Tenders is open to all Tenderers eligible as described in the tender documents clause 12. Further, (a) have legal capacity to enter the contract (b) not been insolvent in receivership bankrupt or being wound up, that their business have not been suspended and that are not subject of legal proceedings for any of the forgoing; (c) that they have fulfilled their obligation to pay taxes and social security contributions; (d) that have not been involved in corrupt and fraudulent practices (e) that all the information provided is accurate and not falsified.

1.2 The Tenderer shall furnish, as part of its tender, documents establishing the Tenderer's eligibility to tender.

1.3 The Tenderer shall:-

1. Have an annual clinker turnover of at least 300,000 Metric Tones
2. Be a duly Incorporated Company
3. Provide certified copies of incorporation documents, the current annual return and any changes filed thereafter
4. Provide certified Audited accounts for the last two (2) years
5. Provide proof of shipping logistics (proof of working arrangement with a shipping line desirable - where the tender option selected requires it - see paragraph 10.3)
6. Provide a comprehensive company profile
7. Give at least two (2) business references
8. Be manufacturers of Clinker or dealers or agents of manufacturers of clinker (Proof of this to be provided)

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2. Eligible Goods

2.1 The clinker to be supplied under the contract shall meet the specifications set out in the employer's requirements contained in **EAPCC** Technical Specifications Form in Section G

2.2 The Tenderer shall furnish, as part of its tender, documentary evidence establishing the eligibility and conformity to the set specifications of the clinker.

2.3 The documentary evidence of conformity of the clinker to the tender documents may be in the form of literature, and data, and shall consist of:

(a) A detailed description of the essential technical and performance characteristics of the clinker and an accompanying test certificate according to test method ASTM C-150 type 1 issued by an accredited laboratory

(b) A commentary on each of the parameters on the Employer's Technical Specifications demonstrating substantial responsiveness of the clinker to be supplied to those specifications, or a statement of deviations and exceptions to the provisions of the Technical Specifications.

3. Cost of Tendering

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

3.2 Confidentiality

All recipients of this tender document, whether or not they submit a tender, shall treat the content as private and confidential. The documents are the copyright of the Employer. All tenders and accompanying documents will be treated in the strictest confidence and no information shall be disclosed to any person who not part of the tender process.

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The Tender Document

4 Contents

4.1 The tender document comprises the documents listed below and addenda issued in accordance with clause 6 of these instructions to tenders.

- (i) Invitation for Tenders
- (ii) General information
- (iii) General Terms and Conditions of Contract
- (iv) Special Conditions of Contract
- (v) Delivery Schedule
- (vi) Technical Specifications
- (vii) Tender Form and Price Schedules
- (viii) Tender Security Form
- (ix) Performance Security Form
- (x) Manufacturer's Authorization Form
- (xi) Confidential Business Questionnaire
- (xii) Statement of Verification that the Tenderer is not debarred in the matter of the Public Procurement and Disposal Act 2005

4.2 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 Tenderer's risk and may result in the rejection of its tender.

5. Clarification of Documents

5.1 A Prospective Tenderer requiring any clarification of the tender document may request such clarification from the Employer in writing or by facsimile / e-mail at the address indicated in the Invitation for tenders. The Employer will respond in writing to any request for clarification of the tender documents, which it receives no later than fourteen (14) days prior to the deadline for the submission of tenders, prescribed by the company. Written copies of the Employer's response (including an explanation of the query but without identifying the source of inquiry) will be sent to all Prospective Tenderers that have received the tender document.

6. Amendment of Documents

6.1 At any time prior to the deadline for submission of tenders, the Employer, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Tenderer, may amend the tender documents.

6.2 All Prospective Tenderers that have received the tender documents will be notified of the amendment in writing or by facsimile/e-mail, not later than fourteen (14) days from the closing date and such amendment will be binding on them.

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Preparation of Tenders

7. Language of Tender

7.1 The tender prepared by the Tenderer, as well as all correspondence and documents relating to the tender exchanged by the Tenderer and the Employer, shall be written in English language.

8. Documents Comprising the Tender

8.1 The tender prepared by the Tenderer shall comprise the following components:

- (a) A Tender Form and a Price Schedule completed in accordance with paragraph 9, 10 and 11 below.
- (b) Documentary evidence established in accordance with paragraph 12 that the Tenderer is eligible to tender and is qualified to perform the contract if its tender is accepted;
- (c) Documentary evidence established in accordance with paragraph 13 that the clinker to be supplied by the Tenderer is eligible and conform to the tender documents; and
- (d) Tender security furnished in accordance with paragraph 14

9. Tender Form

9.1 The Tenderer shall complete the Tender Form and the appropriate Price Schedule furnished in the tender document.

10. Tender Prices

10.1 The Tenderer shall indicate on the Price Schedule the unit price and total tender price of the clinker it proposes to supply under the contract.

10.2 Prices indicated on the Price Schedule shall be entered separately for each year (July-June) in the following manner:

- (i) Cost of the clinker Free On board (F.O.B)
- (ii) Free on Board, Sea Freight, Insurance (C.I.F Mombasa)
- (iii) Free on Board, Sea Freight, Inland Freight, Insurance (C.I.F Athi River)

10.3 The Tenderer may quote FOB only indicating port of loading, or GIF Mombasa only, or GIF Athi River, or all the three options.

10.4 Prices quoted by the Tenderer shall be fixed during the period of Tender and not subject to variation on any account. A tender submitted with an adjustable price quotation will be treated as non-responsive and shall be rejected, pursuant to paragraph 22.

11. Tender Currencies

Prices shall be quoted in U.S. Dollars

12. Documentary Evidence

12.1 The Tenderer shall furnish, as part of its tender, documents establishing the Tenderer's eligibility to tender.

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12.2 The documentary evidence of the Tenderer's qualifications to perform the contract if its tender is accepted shall establish to the Employer's satisfaction that the tenderer:

1. Has an annual clinker turnover of at least 300,000 Metric Tonnes
2. Is duly Incorporated Company (The tenderer shall provide certified copies of incorporation documents, the current annual returns and any changes filed there after)
3. Provide certified Audited accounts for the last two (2) years
4. Provide proof of shipping logistics (proof of working arrangement with a shipping line desirable - where the tender option selected requires it - see paragraph 10.3)
5. Provide a comprehensive company profile
6. Give at least two (2) business references
7. Is a manufacturer of clinker, or a dealer or agent or manufacturer of clinker (Proof of this to be provided)

13. Eligible Goods - See paragraph 2

14.Tender Security

14.1 The Tenderer shall furnish, as part of its tender, a bid bond/tender security for the amount specified in the Invitation to tender.

14.2 The tender security is required to protect Employer against the risk of Tenderer's conduct which would warrant the security's forfeiture, pursuant to paragraph 14.7

14.3 The unconditional Tender Security shall be denominated in US \$ dollars or in another freely convertible currency and be in form of a bank draft, an irrevocable letter of credit or a bank guarantee from a reputable Kenyan Bank or a reputable international bank. The format of the Security shall be in accordance with the sample form of Tender Security included in these tender document; other formats may be permitted subject to the prior approval of the Employer. The Tender Security shall be valid for thirty (30) days beyond the tender validity period.

14.4 Any tender not secured in accordance with paragraph 14.1 and 14.3 shall be rejected by the Employer as nonresponsive, pursuant to paragraph 22.

14.5 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 prescribed by the Employer.

14.6 The successful Tenderer's tender security will be discharged upon the Tenderer signing a contract, pursuant to paragraph 30, and furnishing a performance security, pursuant to paragraph 31.

14.7 The tender security may be forfeited:

(a) If a Tenderer withdraws its tender during the period of tender validity specified by the Employer on the Tender Form; or

(b) If a successful Tenderer fails:

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- (i) To sign a contract in accordance with paragraph 30
- Or**
- (ii) To furnish performance security in accordance with paragraph 31.

15. Validity of Tenders

15.1 Tenders shall remain valid for ninety (90) days.

15.2 In exceptional circumstances, the Employer 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 14 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.

16.Format and Signing of Tender

16.1 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. Written power-of-attorney accompanying the tender shall indicate the latter authorization. The person or persons signing the tender shall initial all pages of the tender, except for unamended printed literature.

16.2 The tender shall have no interlineation, erasures, or overwriting except as necessary to correct errors made by the Tenderer, in which case such corrections shall be countersigned by the person or persons signing the tender. "

Submission of Tenders

Sealing and Marking of Tenders

17.1 The Tenderers shall separate the tender documents into "**A**" - **Technical** and "**B**"

Commercial.

Technical

- The technical documents shall comprise technical specifications, Tenderers profile, Bid Bond/Tender security, Test Certificate, Manufacturer's authorization form, Certified Audited accounts, the confidential business questionnaire, statement of verification that the tenderer is not debarred in the matter of the Public Procurement and Disposal Act 2005, and the delivery schedule

Commercial

- Commercial documents shall comprise the filled and duly signed Form of Tender, payment terms, and price schedule.

17.2 The tenders shall be submitted in two envelopes one marked "**A**" **Technical Offer** and another marked "**B**" **Commercial Offer**, both must be enclosed in an outer envelope which shall bear the tender number and addressed to the Managing Director as indicated in the Tender Notice.

NOTE: No price disclosure shall be contained in Envelope "A"

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17.3 The inner and outer envelopes shall be addressed to;

THE MANAGING DIRECTOR, East African Portland Cement Company Ltd, P.O. Box 40101-00100 GPO, Nairobi
and shall bear, SUPPLY OF CLINKER: TENDER NO. EAPCC/001/2008 and the words: "DO NOT OPEN BEFORE," Thursday, 28th February 2008 at 11.00A.M.

17.4 The inner envelopes shall bear the name and address of the Tenderer. :

17.5 If the outer envelope is not sealed and marked as required by paragraph 17.2, the Employer will assume no responsibility for the tender's misplacement or premature opening.

18. Deadline for Submission of Tenders

18.1 Tenders must be received by the Employer at the address specified under paragraph 17.2 **not later than 11.00 am on . Thursday, 28th February 2008.** Tenders received after the deadline shall be rejected and returned to the tenderers unopened.

18.2 The Employer may, at its discretion, extend this deadline for the submission of tenders by amending the tender documents in accordance with paragraph 6, in which case all rights and obligations of the Employer and candidates previously subject to the deadline will thereafter be subject to the deadline as extended.

19. Modification and Withdrawal of Tenders

19.1 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 Employer prior to the deadline prescribed for submission of tenders.

19.2 The Tenderer's modification or withdrawal notice shall be prepared, sealed, marked, and dispatched in accordance with the provisions of paragraph 17. A withdrawal notice may also be sent by facsimile or e-mail, but followed by a signed confirmation copy, postmarked not later than the deadline for submission of tenders.

19.3 No tender shall be modified after the deadline for submission of tenders.

19.4 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 14.7.

Opening and Evaluation of Tenders

20. Opening of Tenders

20.1 The Employer will open all tenders in the presence of Tenderers' representatives who choose to attend, at **12.00 Noon on. Thursday, 28th February 2008** and in the following location: **East African Portland Cement Company's Headquarters, Athi River, off-Namanga Road in the Board Room.**

The Tenderers' representatives who are present shall sign a register evidencing their attendance.

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20.2 This is a two envelope tender. On the opening date of the tender, **Thursday 28th February 2008** only envelope marked "A" **Technical offer** shall be opened. The names of the Tenderers shall be read out and the Bid Bond/tender security verified. Those tenders that will not have a Bid Bond/tender security shall be rejected. Preliminary evaluation shall be carried out first to determine those who qualify for technical evaluation. After the technical evaluation, those who qualify shall have their commercial submissions (Envelope B) opened at a date to be communicated later by the Employer where the prices quoted by the Tenderer's shall be read out.

NOTE: The Employer is not bound to accept the Tender with the lowest price.

20.3 The Employer shall prepare minutes of the tender opening.

21. Clarification of Tenders

21.1 To assist in the examination, evaluation and comparison of tenders the Employer 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.

21.2 Any effort by the Tenderer to influence the Employer in its tender evaluation, tender comparison or contract award decisions shall result in the disqualification of the Tenderers tender.

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22.Preliminary Examination

22.1 The Employer shall examine the tenders to determine whether the mandatory requirements have been met, whether any computational errors have been made, whether the required security has been furnished, whether the documents have been properly signed, and whether the tenders are generally in order.

22.2 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. This will be communicated to the Tenderer in writing. 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.

22.3 The Employer 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.

22.4 Prior to the detailed evaluation, pursuant to paragraph 23, the Employer 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 Employer's determination of a tender's responsiveness is to be based on the contents of the tender itself without recourse to extrinsic evidence.

22.5 If a tender is not substantially responsive, it shall be rejected by the Employer and shall not subsequently be made responsive by the Tenderer by correction of the nonconformity.

23.Evaluation and Comparison of Tenders

Pursuant to paragraphs 1, 2, 12, & 22 the evaluation criteria shall focus on the following specifics, (a) Conformity to Specification, b) Capability and capacity i) financial ability, ii) turnover, iii) proof of logistical arrangements to ship the Clinker to Mombasa Port, (or Athi River if applicable) iv) Delivery schedule, v) statutory requirements, vi) price.

23.1 The Employer will evaluate and compare the tenders, which have been determined to be substantially responsive, pursuant to paragraph 22.

23.2 The Employer's evaluation of a tender will exclude and not take into account:

(a) In the case of goods manufactured in Kenya or goods of foreign origin already located in Kenya, sales and other similar taxes, which will be payable on the goods if a contract is awarded to the Tenderer; and

(c) Any allowance for price adjustment during the period of execution of the contract, if provided in the tender.

23.3 The comparison shall be for clinker delivered to; 1.Port of Loading (FOB); 2. Mombasa; Cost, Insurance and Freight (C.I.F Mombasa). 3. Athi River; Cost, Insurance, Sea freight, land freight (C.I.F Athi River)

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23.4 Cost of clinker.

The unit price of clinker quoted shall comprise.

(US \$ per Metric tonne)

F.O.B only; or GIF Mombasa; or GIF Athi River

In each case a separate unit price should be indicated as appropriate for FOB, (and where applicable Sea Freight or Inland freight and Insurance

24. Contacting the Procuring entity

24.1 Subject to paragraph 21, no Tenderer shall contact the Employer on any matter relating to its tender, from the time of the tender opening to the time the contract is awarded.

24.2 Any effort by a Tenderer to influence the Employer in its decisions on tender evaluation, tender comparison, or contract award shall result in the disqualification of the Tenderer's tender.

Award of Contract

25. Post-qualification

25.1 The Employer shall 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.

25.2 The determination shall take into account the Tenderer financial, technical, and, where applicable its logistical capabilities. It will be based upon an examination of the documentary evidence of the Tenderers qualifications submitted by the Tenderer, pursuant to paragraph 12.3, as well as such other information as the Employer deems necessary and appropriate.

25.3 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 Employer will proceed to the next lowest evaluated tender to make a similar determination of that Tenderer's capabilities to perform satisfactorily.

26. Award Criteria

Subject to paragraph 10,23 and 28 the Employer shall award the contract to the successful Tenderer(s) whose tender has been determined to be substantially responsive and has been determined to be the lowest evaluated and most competitive tender, provided further that the Tenderer is determined to be qualified to perform the contract satisfactorily.

27. Procuring entity's Right to Vary quantities

The Employer reserves the right at the time of contract award to increase or decrease the quantity of goods originally specified in the Schedule of requirements without any change in

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unit price or other terms and conditions.

28.The Employer's Right to Accept or Reject Any or All Tenders

The Employer 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 Employer's action.

29.Notification of Award

29.1 Prior to the expiration of the period of tender validity, the Employer shall simultaneously notify both the successful and unsuccessful Tenderers in writing of the outcome of the tender.

29.2 Upon the successful Tenderer's furnishing of the performance security pursuant to paragraph 31, the Employer will promptly notify each unsuccessful Tenderer and will discharge its tender security, pursuant to paragraph 14.

30. Signing of Contract

30.1 At the same time as the Employer notifies the successful Tenderer that its tender has been accepted, it will send a draft contract incorporating the General Terms and Conditions of Contract provided in the tender documents .

30.2 Any comments the tenderer has on the draft contract shall be made in writing to the Employer within ten (10) days of receipt of the draft. The Employer shall review such comments and incorporate any it in agreement with in a final contract document, which shall then be sent to the successful Tendered within ten (10) days of receipt of the said comments

30.3 Within thirty (30) days of receipt of the final Contract document, the successful Tenderer shall sign and date the contract and return it to the Employer.

31.Performance Security

31.1 Within thirty (30) days of the receipt of notification of award from the Employer, 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 Employer.

31.2 Failure of the successful Tenderer to comply with the requirement of paragraph 30 or paragraph 31 shall constitute sufficient grounds for the annulment of the award and forfeiture of the tender security, in which event the Employer may make the award to the next lowest evaluated Candidate or call for new tenders.

32. Ethical Standards

32.1 The Employer requires that Tenderers observe the highest standard of ethics during the procurement process and execution of contracts. In pursuant of this policy, the Employer: -

- (a) Defines, for the purposes of this provision, the terms set forth below as follows:
 - (i) "Corrupt practice" means the offering, giving, receiving or soliciting of any thing

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of value to influence the action of a public official in the procurement process or in contract execution; and

(ii) "Fraudulent practice" means a misrepresentation of facts in order to influence a procurement process or the execution of a contract to the detriment of the Employer, and includes collusive practice among Tenderer (prior to or after tender submission) designed to establish tender prices at artificial non-competitive levels and to deprive the Employer of the benefits of free and open competition;

(b) Shall 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;

(c) Shall declare a firm ineligible, either indefinitely or for a stated period of time, to be awarded any contract if it at any time determines that the firm has engaged in corrupt or fraudulent practices in competing for, or in executing, a contract.

32.2 Furthermore, Tenderers shall be aware of the provision stated in the General Terms and Conditions of Contract.

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Section D-General Terms and Conditions of Contract

1. Definitions

- 1.1 In these General Terms and Conditions of Contract, the following terms shall be interpreted as indicated:
- (a) **"The Contract"** means the agreement entered into between the Employer and the Tenderer, and 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 Goods"** means the clinker, which the Tenderer is required to supply to the Employer under the Contract.
 - (d) **"The Employer"** means East African Portland Cement Company Limited, the organisation purchasing the Clinker under the Contract.
 - (e) **"The Tenderer"** means the individual or firm supplying the Clinker under the Contract.

2. Application

These General Terms and Conditions shall form part of the Contract

3. Country of Origin

- 3.1 For purposes of this Clause, "origin" means the place where the Goods were mined or produced.
- 3.2 The origin of Goods and Services is distinct from the nationality of the Tenderer.

4. Standards

- 4.1 The Clinker supplied under the Contract shall conform to the standards mentioned in the Technical Specifications.

5. Use of Contract Documents and Information

- 5.1 The Candidate shall not, without the Employer's prior written consent, disclose the Contract, or any provision thereof, or specification, sample, or information furnished by or on behalf of the Employer in connection therewith, to any person other than a person employed by the Tenderer in the performance of the Contract.
- 5.2 The Tenderer shall not, without the Employer's prior written consent, make use of any document or information enumerated in paragraph 5.1 above.
- 5.3 Any document, other than the Contract itself, enumerated in paragraph 5.3 shall remain the property of the Employer and shall be returned (all copies) to the Employer on completion of the Tenderer's performance under the Contract if so required by the Employer.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

6. Patent Rights

- 6.1 The Tenderer shall indemnify the Employer against all third-party claims of infringement of patent, or trademark rights arising from use of the Clinker or any part thereof in Kenya.

7. Performance Security

- 7.1 Within thirty (30) days of receipt of the notification of tender award, the successful Tenderer shall furnish to the Employer the performance security in the amount specified in Special Conditions of Contract.
- 7.2 The proceeds of the performance security shall be payable to the Employer as compensation for any loss resulting from the Tenderer's failure to complete its obligations under the Contract.
- 7.3 The performance security shall be denominated in the currency of the Contract, or in a freely convertible currency acceptable to the Employer and shall be in the form of a bank guarantee or an irrevocable letter of credit issued by a reputable bank located in Kenya or abroad, acceptable to the Employer, in the form provided in the tender documents.
- 7.4 The performance security will be discharged by the Employer and returned to the Candidate not later than thirty (30) days following the date of completion of the Tenderer's performance obligations under the Contract, including any warranty obligations, under the Contract.

8. Inspection and Tests

- 8.1 The Employer or its representative shall have the right to inspect and/or to test the Clinker to confirm its conformity to the Contract specifications. The Employer shall notify the Tenderer in writing, in a timely manner, of the identity of any representatives retained for these purposes.
- 8.2 The inspections and tests may be conducted on the premises of the Tenderer or its subcontractor(s) at point of delivery, and/or at the Clinker's final destination. If conducted on the premises of the Tenderer or its subcontractor(s), all reasonable facilities and assistance, including access to production data, shall be furnished to the inspectors at no charge to the Employer.
- 8.3 Should any inspected or tested Clinker fail to conform to the Specifications, the Employer may reject the Clinker, and the Tenderer shall either replace the rejected Clinker or make alterations necessary to meet specification requirements free of cost to the Employer.
- 8.4 The Employer's right to inspect, test and, where necessary, reject the Clinker after the Clinker's arrival shall in no way be limited or waived by reason of the Clinker having previously been inspected, tested, and passed by the Employer or its representative prior to the Clinker's delivery.
- 8.5 Nothing in paragraph 8 shall in any way release the Tenderer from any

warranty or other obligations under the Contract.

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EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

9.Packing

- 9.1 The Tenderer shall provide such packing of the Clinker as is required to prevent its damage or deterioration during transit to the port of loading, port of discharge, or final destination as indicated in the contract.
- 9.2 The packing, marking, and documentation within and outside the packages shall comply strictly with such special requirements as shall be expressly provided for in the Contract.

10.Delivery and Documents

- 10.1 Delivery of the Clinker shall be made by the Tenderer in accordance with the terms specified by The Employer in its Schedule of Requirements and the Special Conditions of Contract and a supply contract to be entered into between the employer and the successful tenderer.

11. Insurance

- 11.1 The Clinker supplied under the Contract shall be fully insured against loss or damage incidental to manufacture or acquisition, transportation, storage, and delivery in the manner specified in the Special conditions of contract

12. Payment The method and conditions of payment to be made to the Tenderer under the Contract shall be specified in Special Conditions of Contract.

13-Prices

Prices charged by the Tenderer for Clinker delivered under the Contract shall not, with the exception of any price adjustments authorized in Special Conditions of Contract, vary from the prices by the Tenderer in its tender.

14.Assignment

The Tenderer shall not assign, in whole or in part, its obligations to perform under the Contract, except with the Employer's prior written consent.

15. Subcontracts - Refer to 14 above

16.Termination

16.1 The Employer may, without prejudice to any other remedy for breach of

Contract, by written notice of default sent to the Tenderer, terminate the Contract in whole or in part:

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EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

- (a) If the Tenderer fails to deliver any or all of the Clinker within the period(s) specified in the Contract, or within any extension thereof granted by the Employer.
- (b) If the Tenderer fails to perform any other obligation(s) under the Contract.
- (c) If the Tenderer, in the judgment of the Employer has engaged in corrupt or fraudulent practices in competing for or in executing the Contract.

16.2 In the event the Employer terminates the Contract in whole or in part, it may procure, upon such terms and in such manner as it deems appropriate, Clinker similar to that portion which is undelivered, and the Tenderer shall be liable to the Employer for any excess costs for such Clinker.

16.3 Either party may terminate the Contract by giving the other three (3) months notice in writing.

17. Liquidated Damages

17.1 If the Tenderer fails to deliver any or all of the clinker within the period(s) specified in the contract, the Employer shall, without prejudice to its other remedies under the contract, deduct from the contract prices liquidated damages sum equivalent to 10 % of the delivered price of the delayed goods.

18. Resolution of Disputes

18.1 The Employer and the Tenderer shall make every effort to resolve amicably by direct informal negotiation any disagreement or dispute arising between them under or in connection with the contract.

18.2 If, after thirty (30) days from the commencement of such informal negotiations both parties have been unable to resolve amicably a contract dispute, the dispute shall be resolved exclusively by arbitration. The arbitration shall be conducted under the provisions of the Rules of the Chartered Institute of Arbitrators (Kenya Branch) (and where any matter or thing is not covered by such Rules, the provisions of the Arbitration Act, 1995, Laws of Kenya, shall apply)

19. Language and Law

The language of the contract and the law governing the contract shall be English language and the Laws of Kenya respectively.

20. Force Majeure

Neither Party shall be liable for forfeiture of its performance security, nor 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.

Section E. Special Conditions of Contract

1. The following Special Conditions of Contract shall also be included in the

Contract. A. Mode of payments will be through irrevocable Letters of

Credit B. Performance Bond shall be 10% of the tender sum.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

2. TENDER QUALIFICATION AND AWARD

Mandatory Requirements (MR)

The following mandatory requirements must be met notwithstanding other requirements in the documents:

No	Requirements	Tenderer's Response
MR1	Certified copy of tenderer's Incorporation Documents, duly filed current annual return and any changes filed thereafter.	
MR 2	Provide details of the tenderer's bankers	
MRS	Provide certified copy of the company's current Certificate of Tax Compliance	
MR 4	Submit a completed company's profile using the Confidential Business Questionnaire in appendix 1 of this tender	
MRS	Provide a list of all clients,(maximum ten) you have provided services of similar nature in the last two (2) years	
MR 6	Deliver your tender in a plain sealed envelope in the manner prescribed in the letter of invitation to the Tenderers	
MR 7	Provide copies of certified audited financial statements for the last two (2) accounting years	
MR 8	Provide documentary evidence of Vendor/Agency relationship with the manufacturers of the tendered clinker	
MR 9	Confirm conformance of the tendered clinker with the technical specifications in Section G of this tender document	
MR 10	If quoting GIF, provide documentary evidence of at least 2 previous shipments of clinker. Attach copies of bill of lading.	
MR 11	Provide bid bond /Tender Security of 2% of the bid value from a reputable Kenyan Bank or international Bank	
MR12	Provide a statement of verification that you are not debarred in the matter of Public Procurement and Disposal Act 2005	

Please indicate on the tenderer's response column the compliance with each of the requirements, i.e. indicate whether the documents required have been attached or not.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

EVALUATION CRITERIA

A. Clinker Technical Evaluation Criteria

The tenders shall be subjected to quantitative and qualitative evaluation

Quantitative

Technical and Commercial Evaluation

Basis	Criteria	Score
A. Capability	1) Capacity a) Handled >300,000MT in one year b) Statement of delivery c) Logistical arrangements d) Proof of sourcing 2) Financial Capability a) Turnover b) Working Capital	v
B. Compliance	3. Technical Specifications requirements a) Sample analysis i) Basic oxide ii) Strength iii) Impurities iv) Physical b) Certificate of specification i) Basic Oxide ii) Strength iii) Impurities iv) Physical 4. Statutory Requirements (a) Company Profile (b) Adequacy of profile	
TOTAL		

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

B. Commercial Evaluation Criteria

Basis	Criteria	Score
A. Compliance to Preliminary Evaluation	Tenderers who do not comply shall be disqualified	
B. Price schedule	i) Price ii) Filled in the stipulated format iii) Payment terms indicated	
C. Price schedule	i) Filled in the stipulated format ii) Validity of Price iii) Acceptance of Clause 6	
Total Score		

Section F. Delivery Schedule

Description: CLINKER

Quantity: Approximately 450,000 Metric tonnes.

Delivery Schedule:

July 2008 to June 2009	-	150,000 Metric Tonnes
July 2009 to June 2010	-	150, 000 Metric Tonnes
July 2010 to June 2011	-	150, 000 Metric Tonnes
TOTAL		450,000 Metric Tonnes

Section G. Technical Specifications

GENERAL

1. These specifications describe the basic requirements for bulk clinker. Tenderers must submit with their offers the detailed specifications.
2. Tenderers must indicate on the specifications sheets whether the clinker offered complies with each specified requirement.
3. Deviations from the basic requirements, if any, shall be explained in detail in writing with the offer, with supporting data. The Employer reserves the right to reject the clinker, if such deviations shall be found critical to the use of the product.

**EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED
EAPCC TECHNICAL SPECIFICATIONS FORM**

CLINKER QUALITY SPECIFICATIONS ADPTED FROM ASTM C-150 TYPE 1

A. CHEMICAL PARAMETERS

EAPCC'S SPECS
SPEC'S

TENDERER'S

(i) Basic Oxides			
SiO ₂	%	21-23	
Al ₂ O ₃	%	4-6	
Fe ₂ O ₃	%	2-4	
CaO	%	63-66	
LSF	%	0.90-0.96	
(ii) Clinker Compounds			
C ₃ S	%	SOMin	
C ₂ S	%	28 Max	
C ₃ A	%	6 Min	
C ₄ AF	%	10 Max	
Free CaO	%	1.5 Max	
Free CaO	%	2.00 Max.	
(iii) Impurities/ Volatiles			
MgO	%	1.0 Max	
SO ₃	%	0.65 Max	
K ₂ O	%	0.5 Max	
Na ₂ O	%	0.3 Max	
Chlorides	%	0.02 Max	

B. PHYSICAL PARAMETERS

Litre Weight	gm/lt	1200-1350	
Size		(i) <3 mm- Max 5% (ii) >3mm-25mm-Min 85% (iii) >25mm-Max 5%	
Moisture	%	1.0 Max	
Insoluble Residue	%	0.5Max	
Loss on Ignition	%	0.7 Max	

The Tenderer's shall specify both the chemical and physical parameters of the clinker they are offering in the tenderer's specifications column shown above

Tenderer's Name.....Designation.....

Signature.....Date.....

Witness's Name.....Designation

.Signature.....Date.....

Company's seal.....

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Section H. Tender Form and Price Schedules (i)
Form of Tender

Date: _____

Tender N°: EAPCC/CLINKER/001/2008

Managing Director
East African Portland Cement Co.
Ltd P.O.Box 40101-00100 GPO,
NAIROBI.

Dear Sir,
SUPPLY OF CLINKER

In accordance with the Instructions to Tenderers and Specifications for the execution of supply of Clinker, we, the undersigned offer to undertake the supply of Clinker to the entire satisfaction of East African Portland Cement Company Ltd in conformity with the said tender documents for the sum of US

\$:

(Amount in figures) US\$

(Amount in words)

US\$.....

1. We acknowledge that the appendices to the Tender Form forms part of our tender
2. We undertake, if our Tender is accepted, to deliver the Clinker in accordance with the delivery schedule specified in the Schedule of Requirements.
3. If our Tender is accepted, we will obtain the guarantee of a bank in a sum equivalent to 10% percent of the Contract Price for the due performance of the Contract, in the form prescribed by East African Portland Cement Company Ltd.
4. We agree to abide by this Tender for a period of ninety (90) days from the date fixed for tender opening in the Instructions to Tenderers, and it shall remain binding upon us and may be accepted at any time before the expiration of that period.

6. We understand that you are not bound to accept the lowest or any tender you may receive. Dated this _____ day of _____ 20____.

[Signature]

[In the capacity of]

Sealed for and on behalf of _____
Company Seal

In the presence of _____
Director

Director / Secretary

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

(ii) EAPCC PRICE SCHEDULE FOR CLINKER

Name of tenderer: **Tender Number:** EAPCC/CLINKER/001/2008

The quotation Currency is US Dollars (US \$)
The quotation Unit is Metric tones

There are three tender options

namely; 1. Free On Board (FOB)

	Description	1 st Year; July 2008 to June 2009	2 nd Year , July 2009 to June 20 10	3 rd Year, July 20 10 to June 20 11
1.	FOB			

2. Cost, Insurance and Freight to Mombasa (GIF- Mombasa)

	Description	1 st Year; July 2008 to June 2009	2 nd Year , July 2009 to June 20 10	3 rd Year, July 20 10 to June 20 11
1.	FOB			
2	Sea Freight			
3	Insurance			
4	Total			

3. Cost, Insurance and Freight to Athi River (GIF- Athi River)

	Description	1 st Year; July 2008 to June 2009	2 nd Year , July 2009 to June 20 10	3 rd Year, July 20 10 to June 20 11
1.	FOB			
2	Sea Freight			
3	Inland Freight			
4	Insurance			
5	Total			

Tenderer's Name.....Designation.....Signature.....Date.

Witness's Name..... Designation.....Signature.....Date..

Company's Seal.....In the presence of _____
Director

Director / Secretary

Note: In case of discrepancy between unit price and total, the unit price shall prevail.

Unit price may be quoted cost of clinker only (FOB), or GIF Mombasa, or GIF Athi River, or all the three options.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Section I. Tender Security Form

Whereas..... [Name of the tenderer]
(Hereinafter called "the tenderer") has submitted its tender dated. [Date of submission
of tender] for the supply of elinker

(Hereinafter called "the Tender").....
KNOW ALL PEOPLE by these presents that WE.....

Of..... Having our registered office at
..... (hereinafter called "the Bank"), are bound unto
EAST AFRICAN PORTLAND CEMENT COMPANY LTD (Hereinafter called "the Procuring
entity") in the sum of US \$.....For which payment well and truly to be made to
the
said EAST AFRICAN PORTLAND CEMENT COMPANY LTD, the Bank binds itself, its
successors, and assigns by these presents, sealed with the Common Seal of the said Bank
this ___ day of _____20__.

THE CONDITIONS of this obligation are:

- 1. If the Tenderer withdraws its Tender during the period of tender validity specified by
the Tenderer on the Tender Form; or
2. If the Tenderer, having been notified of the acceptance of its Tender by the
Employer
during the period of tender validity:
(a) Fails or refuses to execute a Contract, 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 EAST AFRICAN PORTLAND CEMENT COMPANY LTD up to
the above amount upon receipt of its first written demand, without the EAST AFRICAN
PORTLAND CEMENT COMPANY LTD having to substantiate its demand, provided that in
its demand the EAST AFRICAN PORTLAND CEMENT COMPANY LTD 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 Bank not later than the
said date.

[Stamp of the bank] and signature of duly authorized official

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Section K. Performance Security Form

(This is the format of the performance security which shall be provided by the successful Tenderer and is for information only).

To: EAST AFRICAN PORTLAND CEMENT COMPANY LTD

WHEREAS..... *[Name of Tenderer]*
 (Hereinafter called "the Tenderer") has undertaken, in pursuance of Contract No. _____
[reference number of the contract] dated _____ 20__ to supply **Clinker**
 (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 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__.

Seal of the Guarantors

In the presence of _____ Director

Director / Secretary

[Name of bank or financial institution]

[Address]

[Date]

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Section L. Manufacturer's Authorization Form

To: *EASTAFRICANPORTLAND CEMENT COMPANY LTD*

WHEREAS.

[Name of the Manufacturer] Who are established and reputable manufacturers of Clinker

having factories at.....

[Address of factory] Do hereby

authorize.....

[Name and address of Dealer or Agent]

To submit a tender, and subsequently negotiate and sign the Contract with you against tender No. EAPCC/CLINKER/001/2008

For the above goods manufactured by us.

We hereby extend our full guarantee and warranty as per the General Conditions of Contract for the goods offered for supply by the above firm against this Invitation for Tenders.

[Signature for and on behalf of Manufacturer]

Note: This letter of authority should be on the letterhead of the Manufacturer and should be signed by a duly authorized officer of the company.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

APPENDIX 1

PROFILE OF THE COMPANY (Confidential Business Questionnaire)

(You are advised that it is a serious commission to give false information under this section as it may render your bid being automatically disqualified).

PART I: GENERAL INFORMATION

- a) The questionnaire must be fully and comprehensively completed in all respects
- b) Information given by the applicant shall be treated in strict confidence.
- c) Any information given and later found to be incorrect shall lead to disqualification of the Tenderer.

PART II: BIDDER DETAIL

The purpose of this section is to provide the required background information of the bidder organization.

- 1) Provide documentary evidence of the registered name and number of your company and date of registration (Attach certified copies of Incorporation documents, duly filed current annual return and any changes filed

Company Name	Company Registration Number	Registration Date
Registered Office (Physical and Postal Address)	Authorised and Issued Share Capital (USD)	Shareholders (including No. of Shares held)
Directors	Main Business Objects	

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

- 2) Give full details of your bankers
- (i) Bank Name and Branch
 - (ii) Bank A/C No.
 - (iii) Contact Person
 - (iv) Telephone
 - (v) Fax
 - (vi) Email address
 - (vii) Website
-

PART III: TENDERER'S CONTACT PERSON(S) DETAIL

3)	Provide the contact person(s) name(s), addresses, phone numbers etc	
	Contact Person Name	
	Position in the Company	
	Landline Telephone Number	
	Cellular Telephone Number	
	Fax Number	
	E-Mail	

PART IV: TENDERER'S PROFILE

4) a)	What is your Company's primary business activity? Provide a list with the percentage of revenue earned from each of the primary business activities	estimated
b)	Provide a detailed organizational structure of your Company.	

PART V: TENDERER'S CLIENT BASE

The purpose of this section is to get a view of the number and profile of customers that the bidding organization has.

East African Portland Cement Company Ltd intends to contact these customers when checking references. You shall be expected to state any objections. Unless otherwise stated, you shall be deemed to have authorized EAPCC to contact these customers.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

Please provide three references from your major clients where you have successfully carried out similar or comparable assignment (Attach documentary evidence from the referees).

- 5) Please provide three references from your major clients where you have successfully carried out similar or comparable assignment (Attach documentary evidence from the referees).

Company Name
Contacts

Turnover

PART VI: VERIFICATION OF BUSINESS SUSTAINABILITY

6)	Attach certified audited financial statements for the last two (2) financial years? The supply of these financial statements shall be mandatory for your tender to be considered responsive.	
7)	Are you currently involved in any litigation or arbitration (or any other legal process which may result in legal or financial liability)? If yes, what is the financial exposure as a result of the litigation, arbitration or other legal process and on what basis has this financial exposure been calculated? If yes, what other exposure could result from the litigation, arbitration or other legal process and will this financial or other exposure materially prejudice the bidder's financial position or its ability to successfully and timely implement any contract which may be awarded to it pursuant to this tender?	
8)	Have you Ever:	
	Question	Response Yes/ No
	Forfeited any payment on a contract?	
	Been declared in default of a contract?	
	Negotiated the premature termination of a contract?	
	Had an uncompleted contract assigned to another solution provider?	

**EAST AFRICAN PORTLAND CEMENT COMPANY
LIMITED**

PART VII: CERTIFICATION

We do hereby certify that the above information is correct in all respects

DATE:.....

COMPANY SEAL.....

Witnessed by:

Director

Name:.....

Signature:.....

Director/Secretary:

Name:.....

Signature:.....

EAST AFRICAN PORTLAND CEMENT COMPANY
LIMITED

APPENDIX 2
**STATEMENT OF VERIFICATION THAT
THE TENDERER IS NOT
DEBARRED**

IN THE MATTER OF THE PUBLIC PROCUREMENT AND DISPOSAL
ACT 2005.

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 Chief Executive/Managing Director/Principal
Officer/Director of
.....(name of the Company) who is a
Tenderer in respect of Tender
Number No. EAPCC /CLINKER/001/2008 to supply Clinker to East
African Portland Cement Company Ltd and duly authorized and
competent to make this statement.

2. THAT the aforesaid Tenderer has not been debarred from
participating in procurement proceeding under Part IX.

3. THAT the aforesaid Tenderer will not engage in any corrupt
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 East African Portland Cement Company Ltd, which is the
procuring entity.

4. THAT the aforesaid Tenderer, its servants and/or agents have not
offered any inducement to
any member of the Board, Management, Staff and/or employees
and/or East African Portland
Cement Company Ltd agents.

5. THAT what is deponed to hereinabove is true to the best of my
knowledge information and belief.

.....
.....
(Title) (Signature) (Date)

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

RE: QUERIES FOR CLINKER -TENDER NO. EAPCC/CLINKER/001/2008

1. Q. There is a possibility to fix price for the first two cargo loads shipped at one time. Thereafter, the price to be agreed for the next two cargo loads until the expiration of three year term.

A. The cargo loads be distributed approximately equally over four quarters per year. However the precise value per shipment will be based on orders raised from time to time according to our requirements. Prices must be quoted fixed for each year in accordance with guidelines in the tender document

2. Q. Page 9 - Item 10.2. Would insurance being covered overseas acceptable. A. It is accepted as long as it is issued by a reputable insurance company.

3. Q. Page 19 - Item 8.4. Generally the suppliers responsibility ends on discharge of goods at port if quoted on C/F Mombasa

A. Correct when goods are cleared and discharged at the port.

4. Q. Page 20 - Item 9. The clinker is in bulk form and will be stored and shipped in hatches of vessel which are clean and secure to prevent rain or other damages.

A. This is correct

5. Q. Page 21 - Item 16.3 EAPCC has a performance bond from the supplier but on its part what guarantee can be given to the supplier that it will meet its obligations.

A. A contract will be done to reflect responsibilities of each party.

6. Q. Page 22 - The performance bond of 10% is rather high. 3.5% of the value of two cargo loads which is approximately 70,000 tons is reasonable. Is there any guarantee from EAPCC that they would order minimum 450,000 tons over three years?

- A. We have amended the tender document to provide for a performance bond valued at Kshs 10% of annual supply.
7. Q. Page 26. Does delivery schedule mean date of shipment or date of arrival at Mombasa.
- A. Delivery schedule means date of arrival at either port of origin, Mombasa or Athi River.

EAST AFRICAN PORTLAND CEMENT COMPANY
LIMITED

8. Q. Page 29. Due to volatile nature of market, validity of the prices to be for 15 days and not 90 days.
- A. Provisions of Tender document to apply.
9. Q. Would EAPCC prefer vessel to be fitted with or without grabs.
- A. This will depend on the tenderer. EAPCC does not have preference.
10. Q. What is the draft situation at Mombasa at the place of off loading cargo.
- A. Please seek clarification from the relevant authorities at the port.
11. Q. Who will pay for the post landing charges such as Customs Duty, V.A.T., Port Charges, Wharfage etc.
- A. Taxes assessed will be paid by the Company directly to the Authority at the time of clearing, however all other charges will be paid by the Supplier.
12. Q. Under option 3 of the price schedule (section 14 part ii), you have requested for inland freight charges to your plant in Ami River. Please note that inland transport may vary over such a long period. Please clarify if an offer with a price fluctuation clause is allowed.
- A. We have amended the tender document to allow for submissions of tenders for 1 year, 2 years or 3 years. However all quotations must be fixed for each year.
13. Q. Note that Under special conditions, we need a confirmation with regard to fluctuation of rates. Note that under customary shipping practice, sea freight does not remain fixed for such long period as three years.
- A. Please see the response to Q 12 above.
14. Q. Under Section F on delivery schedule, we have sent you a question to which you have not replied to date. Please clarify if there is flexibility to supply in any pattern that is practical to us i.e. whether we can supply all the vessels one following the other

or would you like to have them spaced. In case you would like to have them spaced, please advise the delivery dates that you require.

A Shipment will be approximately in four equal installments per annual requirements delivered quarterly. This will be however be based on orders raised according to our requirements

15. Q. In case we source the clinker from several sources, please confirm if we need to send you the test certificates from all those various sources.

A. Specifications have to be complied with in all cases. If they are from different sources, a test certificate must be produced for each.

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

16. Q. Under Section C part 12.2 - subsection 1, you have made a requirement
- that the tenderer must have a clinker turnover of at least 300,000 MT. Please clarify if you are actually referring to production output or are you referring to sales as well.
- A. Either sales or production.
17. Q. Under Section C part 12.2 - subsection 6, you have made a requirement that we give at least 2 business references. Please clarify what you consider as business references i.e. are you referring to our customers or suppliers.
- A. Business references are from your customers.
18. Q. Please note that incase any of the other bidders submits an offer for discharge at Mbaraki, there is no guarantee from ourselves that the wharf shall be available unless with prior arrangement with us. This will attract a fee which we shall advise at the time when a request has been made.
- A. We have noted.
19. Q. By taxes do you mean Duty and VAT only, hence all KPA (Kenya Ports Authority's) charges are to be paid by the supplier, (e.g. shore handling etc)?
- A. Yes
20. Q. This also means that EAPCC is responsible for any tariff changes in Duty/VAT that may be enforced by the government at any time during the contract period.
- A. Duty and VAT assessed by the Authority will be paid by the company.
21. Q. This also leads to the fact that on arrival of a vessel, should tjere be any delay on the part of EAPCC in paying Customs Duty and VAT, that would lead to a delay in offloading the said vessel, the subsequent demurrages due to any such delay will be attributable to EAPCC.
- A. This, and other details, will be included in a contract.
22. Q. Does this mean that a 10% performance bond of one year's supply, and not 10% of the total tender sum is required, as stated in the tender document?
- A. Yes
23. Q. Confirm that the performance bond issued will be

10% of the First year of supply; and renewed and amended subsequently for each year if the tender prices vary in each year?

A Performance bond will cover the annual requirement in any one year

24. Q. Price adjustments - Although it is very clear in your tender

document that the price must remain fixed for each year, considering that other tenderers have raised the same point, we would like you to consider

EAST AFRICAN PORTLAND CEMENT COMPANY LIMITED

the following:-

- This is a three year contract, and considering the recent fluctuations in world oil and coal prices, which directly correlate to freight and clinker prices as well as the recent volatility experienced in the country, under what conditions may the prices be adjusted after signing the contract?

A. Please refer to our response to Q 12.

25. Q. What is the arrival port water draft in meters?
What are the port restrictions?

"v A. The information is not within our knowledge; however it is the suppliers responsibility to obtain information from authorities' in charge of port management or any other source they may deem fit.

26 Q. For bulk: How will you receive the Cement at arrival port, like having silos at the port?

A. Discharge of clinker shall be directly into our trucks for suppliers under option 2 Section H (ii) 2 of the tender document.

27 Q. Discharge method at destination?

A. Discharge method shall be the responsibility of the supplier and his Shipper. We shall receive the clinker upon discharge from the ship.

28 Q. Any other port or vessel type or discharge conditions or limitations you require?

A, We do not have any conditions or limitations related to above

29 Q. Tons per day 24 hours discharge rate guaranteed by buyer? F/SHINC or F/SHEX basis.

A. We shall not be involved in discharge. We shall however take delivery of shipments upon discharge, as soon as is practicable.