

REQUEST FOR PROPOSAL (RFP) SERVICES

REGISTRATION NUMBER: 1944/018018/30

DESCRIPTION	APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR LEGAL TRANSACTIONAL ADVISORS FOR AFRICAN EXPLORATION MINING AND FINANCE CORPORATION (SOC) LTD ("AEMFC") FOR A PERIOD OF THREE (3) YEARS.
BID NUMBER:	AE/VLAK012/2023
BID ISSUE DATE	17 October 2023
BID AVAILABLE	This RFP may be downloaded directly from the National Treasury's e-Tender Publication Portal at www.etenders.gov.za , and African Exploration Mining and Finance Corporation at www.aemfc.co.za . Free of charge.
BRIEFING SESSION DATE AND TIME	A non-compulsory pre-proposal RFP briefing will be conducted via Microsoft Teams on 26 October 2023 at 10:00 for a period of ± 2 hours . The briefing session will start punctually, and information will not be repeated for the benefit of Respondents arriving late. All interested bidders must register their interests by completing the " Registration of Prospective Bidders Form " attached to the advertisement under Section 11 page 38 of 39 and return it to tender@aemfc.co.za . " Registration of Prospective Bidders Form for the briefing session attendance by 25 October 2023 ". This is to ensure that AEMFC may make the necessary arrangements for the virtual briefing session. Note: The onus is upon the bidders to ensure attendance.
CLOSING DATE	09 November 2023
CLOSING TIME	12:00 PM Bidders must ensure that bids are delivered timeously to the correct address. As a general rule, if a bid is late or delivered to the incorrect address, it will not be accepted for consideration.
CLARIFICATION ON ENQUIRY DOCUMENTS	Bidders will notify of any clarifications required before the closing time for clarification queries, which is by 31 October 2023 before the deadline for tender submission. tender@aemfc.co.za .
BID VALIDITY PERIOD:	120 days from closing. Bidders are to note that they may be requested to extend the validity period of their bid, at the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract has been concluded.
DELIVERY INSTRUCTIONS BY HAND	Bid documents should be deposited in the Bid Box situated at: African Exploration Mining and Finance Corporation (SOC) Ltd Building 1, 1 st Floor 74 Waterfall Drive Waterfall City Gauteng 2090 Access to the Bid Box is limited to the following hours: Monday to Friday: 08:00 to 17:00 Late Tenders/Bids will not be accepted. Bidders must ensure that bids are delivered on time to the correct address. Bids received late and to incorrect addresses shall not be accepted for consideration. All Tenders/Bids must be submitted on the official forms provided by – (not to be modified)
DELIVERY INSTRUCTIONS BY COURIER	If dispatched by courier, the envelope must be addressed as follows: The Compliance Secretariat, Bid AE/VLAK012/2023 , and a signature obtained from that Office. African Exploration Mining and Finance Corporation (SOC) Ltd Building 1, 1 st Floor 74 Waterfall Drive Waterfall City, Gauteng, 2090

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SCHEDULE OF BID DOCUMENTS		PAGE
SECTION No		
SECTION 1: SBD 1 FORM		3
SECTION 2: NOTICE TO BIDDERS		6
1.	RFP INSTRUCTIONS	6
2.	COMMUNICATION	6
3.	VALIDITY PERIOD	7
4.	BROAD BASE BLACK ECONOMIC EMPOWERMENT (B-BBEE) ACT	7
5.	SPECIFIC GOALS AND PREFERENCE POINTS	7
6.	JOINTVENTURES OR CONSORTIUMS	7
7.	CONFIDENTIALITY INFORMATION DISCLOSURE NOTICE	8
8.	COMPLIANCE	8
9.	DISCLAIMERS	8
10.	LEGAL REVIEW	9
11.	NATIONAL TREASURY'S SUPPLIER DATABASE(CSD) REGISTRATION	9
12.	TAX COMPLIANCE	9
13.	PROTECTION OF PERSONAL INFORMATION ACT (POPIA)	9
SECTION 3: BACKGROUND OVERVIEW AND SCOPE OF WORK (SOW) SPECIFICATION		11
14.	INTRODUCTION	11
15.	BACKGROUND SCOPE OF WORK (SOW) SPECIFICATION	11
16.	OVERVIEW	11
17.	SCOPE OF WORK (SOW) / SPECIFICATION	12
18.	SERVICES, FACILITIES, AND INFORMATION TO BE SUPPLIED BY THE BIDDER	15
19.	SERVICES, FACILITIES, AND INFORMATION TO BE SUPPLIED BY AEMFC	15
SECTION 4:PRICING SCHEDULE AND DELIVERY SCHEDULE		16
20.	PRICING SCHEDULE GOODS/SERVICES	16
21.	NOTES ON PRICING SCHEDULE	17
SECTION 5: GENERAL SUPPLIER/SERVICE PROVIDER OBLIGATIONS		18
22.	SERVICE PROVIDER	18
23.	EVALUATION METHODOLOGY, CRITERIA	18
SECTION 6: LIST OF RETURNABLE DOCUMENTS		22
24.	RETURNABLE DOCUMENTS REQUIRED	22
25.	MANDATORY RETURNABLE DOCUMENTS	22
26.	RETURNABLE DOCUMENTS USED FOR SCORING	23
27.	ESSENTIAL RETURNABLE DOCUMENTS	23
28.	CONTINUED VALIDITY OF RETURNABLE DOCUMENTS	24
SECTION 7:SBD 4		25
29.	SBD4 DECLARATION OF INTEREST	25
SECTION 8: SBD 6.1		29
30.	SBD6.1 PREFERENTIAL PROCUREMENT REGULATIONS	29
SECTION 9: SBD 9		34
31.	SBD9 CERTIFICATE OF INDEPENDENT BID DETERMINATION	34
SECTION 10:		37
32.	RESOLUTION TO SIGN ON BEHALF OF COMPANY	37
SECTION 11:		38
33.	REGISTRATION OF PROSPECTIVE BIDDERS FORM	38
SECTION 12:		39
34.	CERTIFICATE OF BRIEFING SESSION ATTENDANCE	39

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 1: SBD 1 FORM

PART A

INVITATION TO BID

YOU ARE HEREBY INVITED TO BID FOR REQUIREMENTS OF AFRICAN EXPLORATION MINING AND FINANCE CORPORATION (SOC) LTD							
BID NUMBER:	AE/VLAK012/2023	ISSUE DATE:	17 October 2023	CLOSING DATE:	09 November 2023	CLOSING TIME:	12:00pm
DESCRIPTION	APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR LEGAL TRANSACTIONAL ADVISORS FOR AFRICAN EXPLORATION MINING AND FINANCE CORPORATION (SOC) LTD ("AEMFC") FOR A PERIOD OF THREE (3) YEARS.						
BID RESPONSE DOCUMENTS SUBMISSION							
BID RESPONDENTS DOCUMENTS MAY BE DEPOSITED IN THE BID BOX SITUATED AT African Exploration Mining and Finance Corporation (SOC) Ltd Building 1, 1 st Floor 74 Waterfall Drive Waterfall City Gauteng 2090							
BIDDING PROCEDURE ENQUIRIES MAY BE DIRECTED TO				TECHNICAL ENQUIRIES MAY BE DIRECTED TO:			
CONTACT PERSON	Knowledge Malingane			CONTACT PERSON	Knowledge Malingane		
TELEPHONE NUMBER	010 010 6100			TELEPHONE NUMBER	010 010 6100		
FACSIMILE NUMBER	N/A			FACSIMILE NUMBER	N/A		
E-MAIL ADDRESS	knowledgem@aemfc.co.za			E-MAIL ADDRESS	tender@aemfc.co.za		
SUPPLIER INFORMATION							
NAME OF BIDDER							
POSTAL ADDRESS							
STREET ADDRESS							
TELEPHONE NUMBER	CODE			NUMBER			
CELLPHONE NUMBER							
FACSIMILE NUMBER	CODE			NUMBER			
E-MAIL ADDRESS							
VAT REGISTRATION NUMBER							
SUPPLIER COMPLIANCE STATUS							
TAX COMPLIANCE SYSTEM PIN:							
CENTRAL SUPPLIER DATABASE	UNIQUE REGISTRATION REFERENCE NUMBER: MAAA						
B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE	☐ Yes ☐ No						

Respondent's Signature

Date & Company Stamp

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

[TICK APPLICABLE BOX]			
B-BBEE STATUS LEVEL SWORN AFFIDAVIT [TICK APPLICABLE BOX]	☐ Yes ☐ No		
[A B-BBEE STATUS LEVEL VERIFICATION CERTIFICATE/ SWORN AFFIDAVIT (FOR EMES & QSEs) MUST BE SUBMITTED IN ORDER TO QUALIFY FOR PREFERENCE POINTS FOR B-BBEE ACT]			
1. ARE YOU THE ACCREDITED REPRESENTATIVE IN SOUTH AFRICA FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES ENCLOSE PROOF]	2. ARE YOU A FOREIGN BASED SUPPLIER FOR THE GOODS /SERVICES /WORKS OFFERED?	☐ Yes ☐ No [IF YES, ANSWER QUESTIONNAIRE BELOW]
QUESTIONNAIRE TO BIDDING FOREIGN SUPPLIERS			
IS THE ENTITY A RESIDENT OF THE REPUBLIC OF SOUTH AFRICA (RSA)? ☐ YES ☐ NO DOES THE ENTITY HAVE A BRANCH IN THE RSA? ☐ YES ☐ NO DOES THE ENTITY HAVE A PERMANENT ESTABLISHMENT IN THE RSA? ☐ YES ☐ NO DOES THE ENTITY HAVE ANY SOURCE OF INCOME IN THE RSA? ☐ YES ☐ NO IS THE ENTITY LIABLE IN THE RSA FOR ANY FORM OF TAXATION? ☐ YES ☐ NO IF THE ANSWER IS "NO" TO ALL OF THE ABOVE, THEN IT IS NOT A REQUIREMENT TO REGISTER FOR A TAX COMPLIANCE STATUS SYSTEM PIN CODE FROM THE SOUTH AFRICAN REVENUE SERVICE (SARS) AND IF NOT REGISTER AS PER 1.3 BELOW.			

PART B
TERMS AND CONDITIONS FOR BIDDING

1. BID SUBMISSION
1.1. BIDS MUST BE DELIVERED BY THE STIPULATED TIME TO THE CORRECT ADDRESS. LATE BIDS WILL NOT BE ACCEPTED FOR CONSIDERATION. 1.2. ALL BIDS MUST BE SUBMITTED ON THE OFFICIAL FORMS PROVIDED–(NOT TO BE RE-TYPED) OR ONLINE 1.3. BIDDERS MUST REGISTER ON THE CENTRAL SUPPLIER DATABASE (CSD) TO UPLOAD MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS; AND BANKING INFORMATION FOR VERIFICATION PURPOSES). B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION. 1.4. WHERE A BIDDER IS NOT REGISTERED ON THE CSD, MANDATORY INFORMATION NAMELY: (BUSINESS REGISTRATION/ DIRECTORSHIP/ MEMBERSHIP/IDENTITY NUMBERS; TAX COMPLIANCE STATUS MAY NOT BE SUBMITTED WITH THE BID DOCUMENTATION. B-BBEE CERTIFICATE OR SWORN AFFIDAVIT FOR B-BBEE MUST BE SUBMITTED TO BIDDING INSTITUTION. 1.5. THIS BID IS SUBJECT TO THE PREFERENTIAL PROCUREMENT POLICY FRAMEWORK ACT 2000 AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2017, THE GENERAL CONDITIONS OF CONTRACT (GCC) AND, IF APPLICABLE, ANY OTHER LEGISLATION OR SPECIAL CONDITIONS OF CONTRACT.
2. TAX COMPLIANCE REQUIREMENTS

Respondent's Signature

Date & Company Stamp

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

- 2.1 BIDDERS MUST ENSURE COMPLIANCE WITH THEIR TAX OBLIGATIONS.
- 2.2 BIDDERS ARE REQUIRED TO SUBMIT THEIR UNIQUE PERSONAL IDENTIFICATION NUMBER (PIN) ISSUED BY SARS TO ENABLE THE ORGAN OF STATE TO VIEW THE TAXPAYER'S PROFILE AND TAX STATUS.
- 2.3 APPLICATION FOR TAX COMPLIANCE STATUS (TCS) OR PIN MAY ALSO BE MADE VIA E-FILING. IN ORDER TO USE THIS PROVISION, TAXPAYERS WILL NEED TO REGISTER WITH SARS AS E-FILERS THROUGH THE WEBSITE WWW.SARS.GOV.ZA.
- 2.4 BIDDERS MAY ALSO SUBMIT A PRINTED TCS TOGETHER WITH THE BID.
- 2.5 IN BIDS WHERE CONSORTIA / JOINT VENTURES / SUB-CONTRACTORS ARE INVOLVED, EACH PARTY MUST SUBMIT A SEPARATE PROOF OF TCS / PIN / CSD NUMBER
- 2.6 WHERE NO TCS IS AVAILABLE BUT THE BIDDER IS REGISTERED ON THE CENTRAL SUPPLIER DATABASE (CSD), A CSD NUMBER MUST BE PROVIDED

NB: FAILURE TO PROVIDE / OR COMPLY WITH ANY OF THE ABOVE PARTICULARS MAY RENDER THE BID INVALID.

SIGNATURE OF BIDDER:

CAPACITY UNDER WHICH THIS BID IS SIGNED:

(Proof of authority must be submitted e.g. company resolution)

DATE:

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SECTION 2: NOTICE TO BIDDERS

1. RFP INSTRUCTIONS

- 1.1. Respondents are to sign documents [sign and date the bottom of each page] before submitting the proposal document. The person or persons signing the submission must be legally authorised by the respondent to do so. A duplicate set of documents is required. This second set must be a copy of the original proposal.
- 1.2. Respondents are to note that AEMFC is utilising a two-envelope system for the purpose of receiving this bid. Bidders are required to submit technical/functionality and Commercial and Financial proposals in two separate envelopes.
- 1.3. Proposals must be submitted in duplicate hard copies [**Commercial response 1 original and 1 copy**] [**Functional/Technical response 1 original and 1 copy**] [and must be in a file or bound. **Note:** The original document must be clearly marked as an original version and must be in a file or bound. Each envelope shall state on the outside the employer's address and identification details stated in the **page 1 above**, as well as the bid/tenderer's name and contact address.
- 1.4. Both sets of documents are to be submitted to the address specified in **page 1 above**, and Bidders must ensure that the original and copies (where applicable) are identical in all respects as AEMFC will not accept any liability for having disqualified a bidder for failing to provide a mandatory returnable document in either the original or the copy of the RFP albeit that it was included in the other.
- 1.5. Unless otherwise expressly stated, all Proposals furnished pursuant to this RFP shall be deemed to be offers. Any exceptions to this statement must be clearly and specifically indicated.
- 1.6. Any additional conditions must be embodied in an accompanying letter. Subject only to **paragraph 9 below** (Legal Review) and, alterations additions or deletions must not be made by the Respondent to the actual RFP documents.

2. COMMUNICATION

- 2.1. Respondents are to note that changes to its submission will not be considered after the closing date.
- 2.2. For specific queries relating to this RFP, an RFP Clarification Request should be submitted to the name of delegated individual stated in the **SBD 1 form** before the closing time for clarification queries, which is by **31 October 2023** before the deadline for tender/bid submission. In the interest of fairness and transparency, AEMFC's response to such a query will be published on the e-tender portal and AEMFC website.
- 2.3. After the closing date of the RFP, a Respondent may only communicate with the delegated individual, at email lulamam@aemfc.co.za on any matter relating to its RFP Proposal.
- 2.4. It is prohibited for Respondents to attempt, either directly or indirectly, to canvass any officer or employee of AEMFC in respect of this RFP between the closing date and the date of the award of the business.
- 2.5. Respondents found to be in collusion with one another will be automatically disqualified and restricted from doing business with organs of state for a specified period.
- 2.6. Bidders will be disqualified if the entity or any of its directors is listed on the register of Bid Defaulters in terms of the Prevention and Combating of Corruption Activities Act of 2004 as a person prohibited from doing business with the public sector.
- 2.7. AEMFC will publish the outcome of this RFP in the National Treasury e-tender portal and AEMFC website within 10 days after the award has been finalised. Respondents are required to check the National Treasury e-tender Portal and AEMFC website for the results of the tender/bid process. All unsuccessful bidders have a right to request AEMFC to furnish individual reasons for their bid not being successful. This request must be directed to the contact person stated in the **SBD 1 form**.
- 2.8. There shall be no public opening of the Bid received, however, the list of Bids received may be published on the AEMFC website or National Treasury e-tender portal unless specifically provided

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

for in the RFP.

3. VALIDITY PERIOD

- 3.1. Respondents are to note that they may be requested to extend the validity period of their bid, on the same terms and conditions, if the internal evaluation process has not been finalised within the validity period. However, once the adjudication body has approved the process and award of the business to the successful bidder(s), the validity of the successful bidder(s)' bid will be deemed to remain valid until a final contract.
- 3.2. AEMFC requires a validity period of **(120 days)** from closing date against this RFP, excluding the first day and including the last day.

4. BROAD-BASED ECONOMIC EMPOWERMENT (B-BBEE) & SOCIO- ECONOMIC OBLIGATIONS

- 4.1. AEMFC fully endorses and supports the Government's objective of Broad Based Black Economic Empowerment and is strongly of the opinion that all South African business enterprises have an equal obligation to redress the imbalances of the past.

5. SPECIFIC GOALS AND PREFERENCE POINTS

- 5.1. As prescribed in terms of the Preferential Procurement Policy Framework Act (PPPFA), Act 5 of 2000 and Preferential Procurement Regulations 2022, Bidders are to note that the following preference point systems:

- **the 80/20 system for requirements with a Rand value of up to R50,000,000 (all applicable taxes included) OR**
- **the 90/10 system for requirements with a Rand value above R50,000,000 (all applicable taxes included)**

- 5.2. When AEMFC association invites prospective Suppliers/Service Providers to submit Proposals for its Specific Goals, it requires bidders to complete **(Section 8)** [the B-BBEE Preference Point Claim Form] and submit it together with proof of their documents as stipulated in the Claim Form in order to obtain Specific Goal Points.

Note: Failure to submit a valid and certified copy B-BBEE certificate or Sworn Affidavit or any other documents specified (as evidence for Specific Goals) at the Closing Date of this RFP will result in a score of zero being allocated for Specific Goals.

6. JOINT VENTURES OR CONSORTIUMS

- 6.1. If the bidder is a Joint Venture or Consortium, a Joint Venture / Consortium agreement signed by all member entities of the Joint Venture or Consortium must be attached together with the registration document of all members entitled.
- 6.2. Respondents who would wish to respond to this RFP as a Joint Venture [JV] or consortium with B-BBEE entities, must state their intention to do so in their RFP submission. Such Respondents must also submit a signed JV or consortium agreement between the parties clearly stating the percentage [%] split of business and the associated responsibilities of each party. If at the time of the bid submission such a JV or consortium agreement has not been concluded, the partners must submit confirmation in writing of their intention to enter into a JV or consortium agreement should they be awarded business by AEMFC through this RFP process. This written confirmation must clearly indicate the percentage [%] split of business and the responsibilities of each party. In such cases, award of business will only take place once a signed copy of a JV or consortium agreement is submitted to AEMFC.
- 6.3. Respondents are to note that for the purpose of Evaluation, a JV will be evaluated based on one consolidated B-BBEE score card (a consolidated B-BBEE Status Level verification certificate) as per

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the B-BBEE Preferential Procurement Regulations, 2022 preference point scoring.

7. CONFIDENTIALITY INFORMATION DISCLOSURE NOTICE

- 7.1.** All information related to this RFP is to be treated with strict confidence. All information related to a subsequent contract, both during and after completion thereof, will be treated with strict confidence. Should the need however arise to divulge any information related to this RFP or the subsequent contract, written approval must be obtained from AEMFC.
- 7.2.** This document may contain confidential information that is the property of African Exploration Mining and Finance Corporation (AEMFC) SOC Ltd.
- 7.3.** No part of the contents may be used, copied, disclosed or conveyed in whole or in part to any party in any manner whatsoever other than for preparing a proposal in response to this bid, without prior written permission from AEMFC.

8. COMPLIANCE

- 8.1.** The successful Respondent [hereinafter referred to as the **Service provider** shall be in full and complete compliance with any and all applicable laws and regulations.

9. DISCLAIMERS

- 9.1.** Respondents are hereby advised that AEMFC is not committed to any course of action as a result of its issuance of this RFP and/or its receipt of Proposals. In particular, please note that AEMFC reserves the right in its absolute discretion at any time to:
 - 9.1.1.** modify the RFP's Goods/Services and request Respondents to re- bid on any such changes;
 - 9.1.2.** reject any Proposal which does not conform to instructions and specifications which are detailed herein;
 - 9.1.3.** disqualify Proposals submitted after the stated submission deadline [closing date];
 - 9.1.4.** award a contract in connection with this Proposal at any time after the RFP's closing date;
 - 9.1.5.** award a contract for only a portion of the proposed Goods/ Services which are reflected in the scope of this RFP;
 - 9.1.6.** split the award of the contract between more than one Supplier/Service Provider should it at AEMFC's discretion be more advantageous in terms of amongst others, cost or development considerations;
 - 9.1.7.** cancel the bid;
 - 9.1.8.** validate any information submitted by Respondents in response to this. This would include, but is not limited to, requesting the Respondents to provide supporting evidence. By submitting a bid, Respondents hereby irrevocably grant the necessary consent to AEMFC to do so;
 - 9.1.9.** not accept any changes or purported changes by the Respondent to the bid rates after the closing date and/or after award of the business, unless the contract specifically provided for;
 - 9.1.10.** to award the business to the next ranked bidder, provided that he/she is prepared to provide the required Goods at the quoted price, should the preferred bidder fail to sign or commence with the contract within reasonable period after being requested to do so. Under such circumstances, the validity of the bids of the next ranked bidder(s) will be deemed to remain valid, irrespective of whether the outcome of the tender/bid has been published the outcome of the bid process on the National Treasury (NT) e-tender Portal and AEMFC website. Bidders may therefore be requested to advise whether they would still be prepared to provide the required Goods/Services at their quoted price.
 - 9.1.11.** request audited financial statements or other documentation for the purposes of a due diligence

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exercise.

Note: that AEMFC will not reimburse any Respondent for any preparatory costs or other work performed in connection with its Proposal, whether or not the Respondent is awarded a contract.

10. LEGAL REVIEW

- 10.1. A Proposal submitted by a Respondent will be subjected to review and acceptance or rejection of its proposed contractual terms and conditions by AEMFC's Legal Counsel, prior to consideration for an award of business. A material deviation from the Standard terms or conditions could result in disqualification.

11. NATIONAL TREASURY'S CENTRAL SUPPLIER DATABASE (CSD) REGISTRATION

- 11.1. Respondents are required to self-register on National Treasury's Central Supplier Database (CSD) which has been established to centrally administer supplier information for all organs of state and facilitate the verification of certain key supplier information. Respondents must register on the CSD prior to submitting their bids. Business may not be awarded to a Respondent who has failed to register on the CSD. Only foreign suppliers with no local registered entity need not register on the CSD.
- 11.2. Registration can be completed online at www.csd.gov.za.
- 11.3. Bidders must submit proof of registration on the National Treasury's Central Supplier Database (CSD).

Note: For this purpose, the attached SBD 1 form must be completed and submitted as a mandatory returnable document by the closing date and time of the bid.

12. TAX COMPLIANCE

- 12.1. Respondents must be compliant when submitting a proposal to AEMFC and remain compliant for the entire contract term with all applicable tax legislation, including but not limited to the Income Tax Act, 1962 (Act No. 58 of 1962) and Value Added Tax Act, 1991 (Act No. 89 of 1991);
- 12.2. It is a condition of this bid that the tax matters of the successful Respondents be in order, or that satisfactory arrangements have been made with South African Revenue Service (SARS) to meet the Respondents tax obligations;
- 12.3. The Tax Compliance status requirements are also applicable to foreign Respondents/ individuals who wish to submit bids;
- 12.4. Where Consortia / Joint Ventures / Sub-contractors are involved, each party must be registered on the Central Supplier Database and their tax compliance status will be verified through the Central Supplier Database.

13. PROTECTION OF PERSONAL INFORMATION ACT (POPIA)

- 13.1. The following terms shall bear the same meaning as contemplated in Section 1 of the Protection of Person information act, No.4 of 2013. ("POPIA"):
- consent; data subject; electronic communication; information officer; operator; person; personal information; processing; record; Regulator; responsible party; special information; as well as any terms derived from these terms.
- 13.2. AEMFC will process all information by the Respondent in terms of the requirements contemplated in Section 4(1) of the POPIA:
- Accountability; Processing limitation; Purpose specification; Further processing limitation; Information quality; Openness; Security safeguards and Data subject participation.
- 13.3. The Parties acknowledge and agree that, in relation to personal information that will be processed pursuant to this RFP, the Responsible party is "AEMFC" and the Data subject is the "Respondent". AEMFC will process personal information only with the knowledge and authorisation of the

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

Respondent and will treat personal information which comes to its knowledge as confidential and will not disclose it, unless so required by law or subject to the exceptions contained in the POPIA.

- 13.4.** AEMFC reserves all the rights afforded to it by the POPIA in the processing of any of its information as contained in this RFP and the Respondent is required to comply with all prescripts as detailed in the POPIA relating to all information concerning AEMFC.
- 13.5.** In responding to this bid, AEMFC acknowledges that it will obtain and have access to personal information of the Respondent. AEMFC agrees that it shall only process the information disclosed by Respondent in their response to this bid for the purpose of evaluating and subsequent award of business and in accordance with any applicable law.
- 13.6.** AEMFC further agrees that in submitting any information or documentation requested in this RFP, the Respondent is consenting to the further processing of their personal information for the purpose of, but not limited to, risk assessment, assurances, contract award, contract management, auditing, legal opinions/litigations, investigations (if applicable), document storage for the legislatively required period, destruction, de-identification and publishing of personal information by AEMFC and/or its authorised appointed third parties.
- 13.7.** Furthermore, AEMFC will not otherwise modify, amend or alter any personal data submitted by the Respondent or disclose or permit the disclosure of any personal data to any third party without the prior written consent from the Respondent. Similarly, AEMFC requires the Respondent to process any personal information disclosed by AEMFC in the bidding process in the same manner.

AEMFC urges its clients, suppliers, and general public to report any fraud or corruption to Tip Offs Anonymous

Vuvuzela Fraud and Ethics Hotline

Toll Free Number: 0800 333 118

Email: aemfc@thehotline.co.za

Toll Free Fax: 0867 261 681

Postal: PO BOX 10512, CENTURION, 0046

SMS: 30916

Online: <https://www.thehotline.co.za/report>

Mobile application: Vuvuzela Hot app- use 0800 333 118 to report Corruption

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 3: BACKGROUND OVERVIEW AND SCOPE OF WORK (SOW) SPECIFICATION

14. INTRODUCTION

- 14.1.** African Exploration Mining and Finance Corporation (SOC) Ltd ("AEMFC") is a state-owned Mining Company established to secure South Africa's energy supply primarily through the mining and supply of coal for the generation of electricity, as well as securing other resources that will provide energy for the future, including key minerals for beneficiation in the energy and steel value chain. AEMFC is currently operating an opencast coal mine (Vlakfontein Mine- Coordinates: Latitude 26° 0'42.15"S, Longitude 28°57'47.72"E) established in 2011 which is located near Ogies in Mpumalanga Province with its Head Office at Waterfall City in Johannesburg.

15. BACKGROUND SCOPE OF WORK (SOW) SPECIFICATION

- 15.1.** A panel of legal transaction advisors to provide litigation, legal advisory on legal compliance and regulatory compliance, and related services to AEMFC in the following categories of law:
- a)** Category A: Employment and alternative dispute resolution law (Labour Law)
 - b)** Category B: Constitutional and Administrative Law;
 - c)** Category C: Public Lay, Legislative and Corporate Governance Law;
 - d)** Category D: Tax Law;
 - e)** Category E: Public Procurement Law;
 - f)** Category F: Civil Law;
 - g)** Category G: Property Law;
 - h)** Category H: Mining Law;
 - i)** Category I: Information Technology Law;
 - j)** Category J: Financial and Insurance Law;
 - k)** Category K: Commercial and Corporate Law;
 - l)** Category L: Regulatory and Compliance Law.
- 15.2.** Bidders must indicate which category (ries) they are bidding for.
- 15.3.** AEMFC intends to appoint a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (AEMFC) for a period of three (3) years.
- 15.4.** Thus, the mining service provider is requested to provide a proposal based on the Scope of Work (SOW) below.
- 15.5. OVERVIEW**
- AEMFC is seeking a competent service providers Panel of Legal Transactional Advisors for a period of three (3) years.
- It also seeks to improve its current processes for providing these Services to its end user community throughout its locations.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

The selected Service provider(s) must share in the mission and business objectives of AEMFC. These mutual goals will be met by meeting contractual requirements and new challenges in an environment of teamwork, joint participation, flexibility, innovation and open communications. In this spirit of partnership, AEMFC and its Service provider(s) will study the current ways they do business to enhance current practices and support processes and systems. Such a partnership will allow AEMFC to reach higher levels of quality, service and profitability. AEMFC seeks to benefit from this partnership in the following ways:

15.5.1. AEMFC must receive the reduced cost of acquisition and improved service benefits

resulting from the Service Provider(s) economies of scale and streamered service process.

15.5.2. AEMFC must achieve appropriate availability that meets user needs while reducing costs for both AEMFC and the chosen Service Provider(s).

15.5.3. AEMFC must receive proactive improvements from the Service Provider(s) with respect to the provision of Services.

15.5.4. AEMFC end-users must be able to rely on the chosen Service Provider(s) personnel for service enquiries, recommended, and substitutions.

15.5.5. AEMFC must reduce costs by streamlining its acquisition of Services.

15.6. SCOPE OF WORK (SOW) / SPECIFICATION

15.6.1. The panel of legal firms will be utilised to provide legal services AEMFC in the following law:

NO.	CATEGORIES	AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED
1.	A	Employment and alternative dispute resolution law (Labour Law)	Provide legal opinions on labour, employment benefits and employment law related matters.	Experience in labour and employment law litigation
			Assist in disciplinary hearings, arbitrations and other dispute resolution mechanisms.	Understand the regulatory framework governing public service employment
			Institute legal proceedings, including appeals and reviews of Labour Court cases	An understanding of labour law and employment law jurisprudence for purposes of providing legal opinions
				Knowledge of Bargaining Council and other dispute resolution forum.
				Management of Labour litigation
2.	B	Constitutional and Administrative Law	Provide legal opinions in respect of constitutional and administrative law matters	Experience in providing opinions in constitutional and administrative law matters
			Assist in drafting of public or private agreements to be entered into by the AEMFC group.	
			Ensure technical quality, adherence to best practice and consistency with the Constitution and other Acts of Parliament	
			Currency transfer and exchange rules and regulations	
			Advise on the legal interpretation and legal implications of existing or proposed public or private agreements to be entered into by the AEMFC group	
			Attend to Regulatory Tribunals and reviews.	

Returnable document

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

NO.	CATEGORIES	AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED
3.	C	Tax Law	Advise on and providing legal opinions on tax law.	Knowledge and understanding of South African tax regime, including but not limited to principles of taxation, forms of taxation and tax reforms
				In some cases, understanding specialized areas of tax legislation, such as insurance taxation, environment taxation, financial products and trusts
				Knowledge of Customs and Excise legislation
				Understanding international tax and double taxation agreement/s regime and arrangements.
				Knowledge of tax legislation.
				Appeal and review of tax practices
4.	D	Public Procurement related Law	Provide advice on public procurement.	Comprehensive and understanding on public procurement matters.
			Assist where necessary with public procurement processes	
			Advise on policy and procedures.	
5.	E	Civil Law	Litigation management on behalf of the AEMFC Group	Conduct litigation on behalf of AEMFC (e.g. handling of litigation process)
			Legal Audit and assessment.	Provide oral and written legal advice throughout litigation process
			International Legal Affairs	Propose and arrange settlement mechanism.
				Attend to alternative dispute resolution and/or arbitration.
				Provide comprehensive internal legal audit gap analysis on policies, procedures, legal process, pending legal matters, pending government enactment and provide advisory opinions on improvement, legislative review and development.
				International litigation management, opinions and advisory on issues of Laws, conflicts and International Customary Rules and Laws

Respondent's Signature

Date & Company Stamp

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

NO.	CATEGORIES	AREA OF WORK	SCOPE OF WORK	SKILLS REQUIRED
6.	F	Property law	Advise on all property transactions including servitudes negotiations	Experience in Property law and Admitted as a Conveyancer and Notary Public.
7.	G	Mining Laws	Advice on all aspects related to mining and mineral commodities licensing in South Africa, SADC and Africa including relevant applicable legislation and legal practices.	Experience in mining establishment, social and stakeholder engagement, licence applications, disposal and closures.
8.	H	Information Technology law	Advice on all aspects of IT law, such as inter alia, service level agreements pertaining to system integration, software, website development etc. Advisory on application of promotion of access to information legislation/s regulating security, data, data capturing, data storage, dissemination and disposal.	Experience in IT law and communication, including cyber law.
9.	I	Environmental Law	Provide necessary advisory service on environment, preservation of ecosystems in consideration to applicable NEMA legislation/s framework and regulation/s as well as other laws affecting the ecology.	Assist with Environmental compliance and Audit reviews and planning. Assist with EIA applications, reviews and compliance. Assist with SHEQ and Occupational health and Safety related legal matters and issues. General environmental advisory pertaining to legal and compliance expectations on ecology, SHEQ and health and safety during project initiations and rollout
10.	J	Financial and Insurance Law	Knowledge of application of Insurance legislations, indemnities and financial instruments ("LC", bonds, guarantees etc) Laws and regulations. Currency transfer and exchange rules and regulations	Experience in drafting, reviews of terms, conditions of insurance, claim management, LC, bonds, guarantees and general advisory. Services
11.	K	Commercial and Corporate law	Advise on M&A and corporate finance transactions, as well as banking & finance in general Provide legal opinions on corporate law.; Drafting, review and advise on commercial agreements etc. Advise on legal issues arising from asset, risk and debt collection and management.	Experience in working with transactions of corporate law nature; Excellent research and drafting skills, for purposes of preparing legal opinions of a corporate law nature. Ability to work and delivery on specific outputs on time and lead team legal work stream. Experience in providing advice in general commercial transactions
12.	L	Public sector law, legislative and corporate governance law	Advise on public sector law, and corporate governance-related matters.	Understanding regulatory framework governing public entities.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

16. SERVICES, FACILITIES, AND INFORMATION TO BE SUPPLIED BY THE BIDDER

- 16.1.** Resources and skillset to perform the advisory services;
- 16.2.** Own laptops, electronics and any information technology required to perform the work;
- 16.3.** Own data, wifi or internet connectivity.

17. SERVICES, FACILITIES, AND INFORMATION TO BE SUPPLIED BY AEMFC

- 17.1.** Access to the offices if needed;
- 17.2.** Access to the applicable data rooms.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 4: PRICING SCHEDULE AND DELIVERY SCHEDULE

18. PRICING SCHEDULE SERVICES

18.1. Respondents are to note that AEMFC will round final score pricing scores to the nearest 2 decimal places. Respondents are required to complete the table below:

18.2. Note Utilisation of the Panel: For Fairness and transparency, a Request for Quotation (RFQ) on price will be issued to the appointed panel on a rotational basis as and when required.

Note: For fair comparison, all bidders must quote prices and indicate VAT portion. If the bidder is not registered for VAT, proof of application to register for VAT must be submitted.

BIDDING COMPANY NAME							
ITEM NO.	DESCRIPTION OF SERVICES	RESOURCE DESIGNATION/ TITLE OF RESOURCE	NO OF RESOURCES	ESTIMATED NO. OF HOURS	RESOURCE RATE PER HOUR	PRICE (EXCL VAT)	PRICE (INC.VAT)
1.	Senior Partner/ Director						
2.	Junior Partner						
3.	Senior Associate						
4.	Associate						
5.	Candidate Attorney						
TOTAL PRICE (exclusive of VAT)							
VAT 15% (If Applicable)							
DISBURSMENTS							
TOTAL Inclusive of VAT (where applicable)							
Total Price in words							

Respondent's Signature

Date & Company Stamp

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

19. NOTES ON PRICING SCHEDULE

19.1. Respondents are to note that if the price offered by the highest scoring bidder is not market related, AEMFC will not award the contract to that Respondent. AEMFC may:

- (i) negotiate a market-related price with the Respondent scoring the highest points or cancel the RFP;
- (ii) if that Respondent does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the second highest points or cancel the RFP;
- (iii) if the Respondent scoring the second highest points does not agree to a market-related price, negotiate a market-related price with the Respondent scoring the third highest points or cancel the RFP.

Note: If a market-related price is not agreed with the Respondent scoring the third highest points, AEMFC must cancel the RFP.

19.2. To facilitate like-for-like comparison bidders must submit pricing strictly in accordance with this pricing schedule and not utilise a different format. Deviation from this pricing schedule could result in a bid being declared non-responsive.

19.3. Prices must be quoted in South African Rand inclusive VAT.

19.4. Any disbursement not specifically priced for will not be considered/accepted by AEMFC.

19.5. Respondents, if awarded the contract, are required to indicate that their prices quoted would be kept firm and fixed a period of 12 months, subject thereafter to adjustment (i.e. after the initial period of 12 months), utilising the following Producer Price Index (PPI), Seifsa, Consumer Price Index (CPI) [Not to be confused with bid validity period Section 2, clause 3]

YES	
-----	--

19.6. Note Utilisation of the Panel: For Fairness and transparency, a Request for Quotation (RFQ) on price will be issued to the appointed panel on a rotational basis as and when required.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

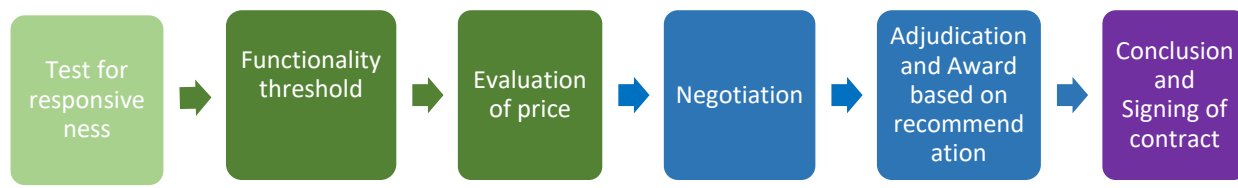
SECTION 5: GENERAL SERVICE PROVIDER OBLIGATIONS

20. SERVICE PROVIDER

- 20.1. The Service Provider (s) shall be responsible to AEMFC for the acts omissions of persons directly or indirectly employed by
- 20.2. The Service Provider (s) must comply with the requirements stated in this RFP.

21. EVALUATION METHODOLOGY, CRITERIA

will utilize the following methodology and criteria in selecting a preferred Service Provider.



21.1.1. After the closing date of the Bid Quotation, an appointed evaluation committee of AEMFC officials and / or external parties / consultants where necessary will evaluate the Bid / Tender proposals received.

21.1.2. The Committee will evaluate each of the bid Quote proposals received against the approved criteria as stated below:

21.1.3. Step One: Test for Administrative Responsiveness (compliance check on required documents), must be passed for a Respondent's proposal to progress to **Step Two** for further pre-qualification.

- Whether the Bid has been lodged on time;
- Whether all Returnable Documents and/or schedules [where applicable] were completed and returned by the closing date and time;
- Verify the validity of all returnable documents;
- Verify if the Bid document has been duly signed by the authorised respondent.

21.1.4. Step Two: Test for Responsiveness to RFP for technical/functionality criteria must be met or exceeded for a Respondent's proposal to progress to **Step Three** for further evaluation. The test for technical and functional threshold will include the following (**Refer to functionality (technical) evaluation criteria table below**): Minimum threshold of **70** points.

- Whether any general and legislation qualification criteria set by AEMFC, have been met;
- Whether the Bid contains a priced offer as prescribed in the pricing and delivery schedule;
- Whether the Bid materially complies with the scope and/or specification given.

21.1.5. Step Three: Evaluation of Price to determine a preferred bidders' price will be ranked from the lowest to the highest acceptable price offered and AEMFC will award business to the lowest acceptable Bid (Highest ranked bid) unless objective criteria justify the award to another bidder.

21.1.6. Step Four: Post-tender negotiations (If Applicable)

21.1.7. Step Five: Award of business and contract conclusion.

Returnable document

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

22. EVALUATION CRITERIA

Applicable evaluation criteria

FUNCTIONALITY (TECHNICAL) EVALUATION CRITERIA					
NO.	EVALUATION CRITERIA	SCORING PRINCIPLE	RETURNABLE SCHEDULE	RATING	WEIGHTING SCORE
1.	Law Firm experience	10 years' law firm experience or more	Provide a Law Firm's profile which must include a list of projects undertaken as well as the corresponding full citation judgments/ settlements thereof that demonstrates the experience in the selected category.	20	20
		6 to 9 years' law firm experience		15	
		2 to 5 years law firm experience		5	
		1 years' experience		0	
	NB: Failure to provide the required information will lead to the bidder scoring zero points.				
2.	Core team Experience	The team is composed of at least lead partner/director, manager, Senior associate, associate, and Candidate attorney/ Legal Practitioner.	Qualifications and summarized CVs of the proposed team members with <u>contactable references.</u>	40	40
		The team is composed of at least lead partner/director, manager, Senior associate, associate.		30	
		The team is composed of at least lead partner/director, manager and 2 other team Member.		25	
		The team is composed of at least lead partner/director, manager and 1 other team member.		5	
	NB: The onus is on the bidder to ensure that the contact details and email addresses of the references provided are valid. Failure to provide the required information on the reference letter will lead to the bidder scoring zero points.				

Returnable document

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

FUNCTIONALITY (TECHNICAL) EVALUATION CRITERIA					
NO.	EVALUATION CRITERIA	SCORING PRINCIPLE	RETURNABLE SCHEDULE	RATING	WEIGHTING SCORE
3.	Projects completed by the law firm	10 or more projects completed/ work done in the selected practice areas.	Bidder to submit <u>signed and contactable Reference</u> Letters on the referring company letter head (or signed reference letter by private clients) Reference letters are to be attached for all clients listed and final points will be awarded upon confirmation of the information provided. Reference letters provided by the bidder must <u>Not be older than 24 months</u>	40	40
		6 to 9 projects completed/ work done in the selected practice areas.		30	
		2 to 5 projects completed/ work done in the selected practice areas.		20	
		1 project completed/ work done in the selected practice areas.		0	
		No relevant reference letter			
N.B The onus is on the bidder to ensure that the contact details and email addresses of the clients provided are valid. Failure to provide the required information on the reference letter will lead to the bidder scoring zero points.					
Minimum qualifying score required					70
Total weighting					100

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

23. FORMULA EVALUATION ON PRICE

23.1. AEMFC will utilise the following formula in its evaluation on Price:

$$PS = 80 \left(1 - \frac{Pt - Pmin}{Pmin} \right)$$

Where:

Ps = Score for the Bid under consideration

Pt = Price of Bid under consideration

$Pmin$ = Price of lowest acceptable Bid

23.2. Points for this bid /tender shall be awarded for the following:

- i. Price
- ii. Specific Goals (weighted scores **20**):

Returnable document

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 6: LIST OF RETURNABLE DOCUMENTS**24. RETURNABLE DOCUMENTS REQUIRED**

- 24.1.** Returnable Documents means all the documents, Sections, and Annexures, as listed in the tables below. There are three types of returnable documents as indicated below and Respondents are urged to ensure that these documents are returned with their bids based on the consequences of non-submission as indicated below:

Mandatory Returnable Documents	<i>Failure to provide all these Mandatory Returnable Documents at the Closing Date and time of this RFP <u>will</u> result in a Respondent's disqualification.</i>
Returnable Documents Used for Scoring	<i>Failure to provide all Returnable Documents used for purposes of scoring a bid, by the closing date and time of this bid will not result in a Respondent's disqualification. However, Bidders will receive an automatic score of zero for the applicable evaluation criterion.</i>
Essential Returnable Documents	<i>Failure to provide essential Returnable Documents <u>will</u> result in AEMFC affording Respondents a further opportunity to submit by a set deadline. Should a Respondent thereafter fail to submit the requested documents, this may result in a Respondent's disqualification.</i>

Note: All Returnable Sections, as indicated in the footer of the relevant pages, must be signed, stamped and dated by the Respondent.

24.1.1. MANDATORY RETURNABLE DOCUMENTS

Respondents are required to submit with their bid submissions the following **Mandatory Returnable Documents**, and also to confirm submission of these documents by so indicating [Yes or No] in the tables below:

MANDATORY RETURNABLE DOCUMENTS	
	SUBMITTED [Yes/No]
SECTION 1: SBD1 Form	
SECTION 4: Pricing	
Valid Legal Practitioners Fidelity Fund Certificate not older than 3 months	
Valid Letter of Good Standing with the Legal Practice Council provided not older than 12 months	
Proof of registration with the Legal Practice Council	

24.1.2. RETURNABLE DOCUMENTS USED FOR SCORING

In addition to the requirements of section (24.1.1) above, Respondents are further required to submit with their Proposals the following **Returnable Documents Used for Scoring** and also to confirm submission of these documents by so indicating [Yes or No] in the table below:

Respondent's Signature

Date & Company Stamp

Returnable document

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

RETURNABLE DOCUMENTS USED FOR SCORING	
	SUBMITTED [Yes/No]
Provide a Law Firm's profile that demonstrates the experience in the selected category.	
Core team experience and CVs should demonstrate the relevant experience as per category/ies selected	
Projects completed by the law firm.	
Valid proof of Respondent's compliance to B-BBEE requirements stipulated in Section 8 of this RFP (Valid B-BBEE certificate or Sworn Affidavit) Note: Failure to submit valid and original (or a certified copy of) proof of the Respondent's compliance with the B-BBEE or Sworn Affidavit, will result in a score of zero being allocated for Specific Goals.	

24.1.3. ESSENTIAL RETURNABLE DOCUMENTS

Over and above the requirements of sections (24.1.1) and (24.1.2) mentioned above, Respondents are further required to submit with their Proposals the following **Essential Returnable Documents** and also to confirm the submission of these documents by so indicating [Yes or No] in the table below:

ESSENTIAL RETURNABLE DOCUMENTS	
	SUBMITTED [Yes/No]
National Treasury Registration on Central Data Base (CSD) (certificate). (A detailed report not older than one (1) month).	
Tax Clearance Certificate or electronic access PIN obtained from SARS's new Tax Compliance Status (TCS) system [Consortia / Joint Ventures must submit a separate Tax Clearance Certificate for each party]	
SECTION 6: List of Returnable Documents (continued validity of returnable documents)	
SECTION 7: SBD 4 Declaration of Interest	
SECTION 8: SBD 6.1 Preferential Procurement Regulations	
SECTION 9: SBD 9 Certificate of Independent Bid Determination	
SECTION 10: Resolution to Sign on Behalf of Company	
SECTION 11: Registration of Prospective Bidders Form	
SECTION 12: Certificate of Attendance of Non-Compulsory RFP Briefing	

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

24.1.4. CONTINUED VALIDITY OF RETURNABLE DOCUMENTS

The successful Respondent will be required to ensure the validity of all returnable documents, including but not limited to its valid proof of B-BBEE status, for the duration of any contract emanating from this RFP. Should the Respondent be awarded the contract [**the Agreement**] and fail to present AEMFC with such renewals as and when they become due, AEMFC shall be entitled, in addition to any other rights and remedies that it may have in terms of the eventual Agreement, to terminate such Agreement immediately without any liability and without prejudice to any claims which AEMFC may have for damages against the Respondent.

SIGNED at _____ on this _____ day of _____, 20_____

SIGNATURE OF RESPONDENT'S AUTHORISED REPRESENTATIVE: _____

NAME: _____

DESIGNATION: _____

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 7: SBD 4

25. ADMINISTRATIVE RETURNABLE DOCUMENTS

DECLARATION OF INTEREST

(SBD4)

25.1. Any legal person, including persons employed by the state¹, or persons having a kinship with persons employed by the state, including a blood relationship, may make an offer or offers in terms of this invitation to bid (includes a price quotation, advertised competitive bid, limited bid or proposal). In view of possible allegations of favouritism, should the resulting bid, or part thereof, be awarded to persons employed by the state, or to persons connected with or related to them, it is required that the bidder or his/her authorised representative declare his/her position in relation to the evaluating/adjudicating authority where-

- the bidder is employed by the state; and/or
- the legal person on whose behalf the bidding document is signed, has a relationship with persons/a person who are/is involved in the evaluation and or adjudication of the bid(s), or where it is known that such a relationship exists between the person or persons for or on whose behalf the declarant acts and persons who are involved with the evaluation and or adjudication of the bid.

25.2. In order to give effect to the above, the following questionnaire must be completed and submitted with the bid.

25.2.1. Full Name of bidder or his or her representative:

25.2.2. Identity Number.....

25.2.3. Position occupied in the Company (director, trustee, shareholder²):

25.2.4. Company Registration Number.....

25.2.5. Tax Reference Number:

25.2.6. VAT Registration Number:

25.2.6.1. The names of all directors / trustees / shareholders / members, their individual identity numbers, tax reference numbers and, if applicable, employee / persal numbers must be indicated in paragraph 3 below.

25.2.6.2. "State" means –

- (a) any national or provincial department, national or provincial public entity or constitutional institution within the meaning of the Public Finance Management Act, 1999 (Act No. 1 of 1999);
- (b) any municipality or municipal entity;
- (c) provincial legislature;
- (d) national Assembly or the national Council of provinces; or
- (e) Parliament.

²"Shareholder" means a person who owns shares in the company and is actively involved in the management of the enterprise or business and exercises control over the enterprise.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

25.3. Are you or any person connected with the bidder presently employed by the state? YES/NO

25.3.1. If so, furnish the following particulars:

- (a) Name of person / director / trustee / shareholder/ member:
.....
- (b) Name of state institution at which you or the person connected to the bidder is employed:
.....
- (c) Position occupied in the state institution:
.....
- (d) Any other particulars:
.....

25.3.1.1.If you are presently employed by the state, did you obtain the appropriate authority to undertake remunerative work outside employment in the public sector? YES/NO

25.3.1.2.If yes, did you attach proof of such authority to the bid document? YES / NO

(Note: Failure to submit proof of such authority, where applicable, may result in the disqualification of the bid.

25.3.1.3.If no, furnish reasons for non-submission of such proof:

.....
.....
.....

25.4. Did you or your spouse, or any of the company's directors / trustees /shareholders / members or their spouses conduct business with the state in the previous twelve months? YES/NO

25.4.1. If so, furnish particulars:

.....
.....
.....

25.5. Do you, or any person connected with the bidder, have any relationship (family, friend, other) with a person employed by the state and who may be involved with the evaluation and or adjudication of this bid? YES / NO

25.5.1. If so, furnish particulars.

.....
.....
.....

25.6. Are you, or any person connected with the bidder, aware of any relationship (family, friend, other) between any other and any person employed by the state who may be involved with the evaluation and or adjudication of this bid? YES/NO

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

25.6.1. If so, furnish particulars.

.....

.....

.....

25.7. Do you or any of the directors / trustees / shareholders / members of the company have any interest in any other related companies whether or not they are bidding for this contract?

YES/NO

25.7.1. If so, furnish particulars:

.....

.....

.....

25.8. Full details of directors / trustees / members / shareholders.

Full Name	Identity Number	Personal Reference Number	Tax Number	State Number	Employee / Persal Number

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

25.9. DECLARATION

THE UNDERSIGNED (NAME).....

CERTIFY THAT THE INFORMATION FURNISHED IN PARAGRAPHS 2 and 3 ABOVE IS CORRECT.

I ACCEPT THAT THE STATE MAY REJECT THE BID OR ACT AGAINST ME IN TERMS OF PARAGRAPH 23 OF THE GENERAL CONDITIONS OF CONTRACT SHOULD THIS DECLARATION PROVE TO BE FALSE.

.....
Signature

.....
Date

.....
Position

.....
Name of bidder

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 8: SBD 6.1

SBD 6.1

26. PREFERENCE POINTS CLAIM FORM IN TERMS OF THE PREFERENTIAL PROCUREMENT REGULATIONS 2022

This preference form must form part of all bids invited. It contains general information and serves as a claim form for preference points for Specific Goals.

NB: BEFORE COMPLETING THIS FORM, BIDDERS MUST STUDY THE GENERAL CONDITIONS, DEFINITIONS, AND DIRECTIVES APPLICABLE IN RESPECT OF THE TENDER AND THE PREFERENTIAL PROCUREMENT REGULATIONS, 2022.

27. GENERAL CONDITIONS

27.1. The following preference point systems are applicable to all bids:

- the 80/20 system for requirements with a Rand value of up to R50 000 000 (all applicable taxes included); and
- the 90/10 system for requirements with a Rand value above R50 000 000 (all applicable taxes included).

27.2. To be completed by organ of state

- a) The value of this bid is estimated to not **exceed** R50 000 000 (all applicable taxes included) and therefore the **80/20** preference point system shall be applicable;

27.3. Points for this bid shall be awarded for:

- (a) Price; and
- (b) Specific Goals.

27.4. The maximum points for this bid are allocated as follows:

	POINTS
PRICE	80
SPECIFIC GOALS	20
Total points for Price and SPECIFIC GOALS	100

27.5. Failure on the part of a bidder/tenderer to submit proof of documentation required in terms of this bid/tender to claim points for Specific Goals with the bid/tender, will be interpreted to mean that preference points for Specific Goals are not claimed.

27.6. The organ of state reserves the right to require of a bidder/tenderer, either before a bid/tender is adjudicated or at any time subsequently, to substantiate any claim in regard to preferences, in any manner required by the organ of state.

28. DEFINITIONS

- (a) **"tender/bid"** means a written offer in a prescribed or stipulated form in response to an invitation by an organ of state for the provision of goods or services or works, through price quotations, advertised competitive bidding processes or proposals or any other method envisaged in legislation;
- (b) **"prices"** means an amount of money tendered for goods/services/works, and includes all applicable taxes less all unconditional discounts;
- (c) **"rand value"** means the total estimated value of a contract in Rand, calculated at the time of bid invitation, and includes all applicable taxes;

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

- (d) **"tender for income-generating contracts"** means a written offer in the form determined by an organ of state in response to an invitation for the origination of income-generating contracts through any method envisaged in legislation that will result in a legal agreement between the organ of state and a third party that produces revenue for the organ of state, and includes, but is not limited to, leasing and disposal of assets and concession contracts, excluding direct sales and disposal of assets through public auctions; and
- (e) **"the Act"** means the preferential Procurement Policy Framework Act, 2000 (Act No. 5 of 2000);

29. FORMULAE FOR PROCUREMENT GOODS AND SERVICES

29.1. POINTS AWARDED FOR PRICE

29.1.1. THE 80/20 PREFERENCE POINTS SYSTEM:

A maximum of **80** points is allocated for price on the following basis:

80/20

$$Ps = 80 \left(1 - \frac{Pt - P_{\min}}{P_{\min}} \right)$$

Where

- Ps = Points scored for price of bid under consideration
- Pt = Price of bid under consideration
- Pmin = Price of lowest acceptable bid

30. POINTS AWARDED FOR SPECIFIC GOALS

- 30.1.** In terms of Regulation 4 (2); 6 (2) and 7 (2) of the Preferential Procurement Regulations, preference points must be awarded for Specific Goals stated in the tender/bid. For the purposes of this tender the tenderer/bidder will be allocated points based on the goals stated in table 1 below as may be supported by proof/documentation stated in the conditions of this tender:
- 30.2.** In cases where organs of state intend to use Regulation 3(2) of the Regulations, which states that, if it is unclear whether the 80/20 or 90/10 preference point system applies, an organ of state must, in the tender documents, stipulate in the case of
- (a) an invitation for tender for income-generating contracts, that either the 80/20 or 90/10 preference point system will apply and that the highest acceptable tender will be used to determine the applicable preference point system; or
 - (b) any other invitation for tender, that either the 80/20 or 90/10 preference point system will apply and that the lowest acceptable tender will be used to determine the applicable preference point system,
 - (c) then the organ of state must indicate the points allocated for specific goals for both the 90/10 and 80/20 preference point system

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

30.3. Table 1: Specific goals for the tender/bid and points claimed are indicated per the table below. (Note to organs of state: Where either the 90/10 or 80/20 preference point system is applicable, corresponding points must also be indicated as such.

Note to tenderers/bidders: The tenderer must indicate how they claim points for each preference point system.)

30.4. AEMFC has identified in its Supply Chain Management Policy, **Specific Goals**, which will be used to promote transformation and empowerment. In this Request For Proposal (RFP) AEMFC will utilise the B-BBEE status level of the contributor as the specific goal. **The Specific Goal/s applicable to the tender/bid is stated in the table below:**

Specific Goals in terms of this RFP B-BBEE Status Level of Contributor	Number of points (80/20 system)
1	20
2	18
3	14
4	12
5	8
6	6
7	4
8	2
Non-compliant contributor	0

30.5. Bidders/Tenders must submit B-BBEE certificate issued by an authorised body or a B-BBEE Sworn affidavit to claim specific goals (s) points.

30.6. Proof of documentation must be attached in the form of Valid B-BBEE certificate or Sworn Affidavit that is valid for a period of twelve (12) months from date signed by the commissioner.

30.7. AEMFC can only award points provided sufficient information and required documents are correctly completed and returned with the proposals.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

31. **DECLARATION WITH REGARD TO COMPANY/FIRM**

31.1. Name of company/firm:.....

31.2. VAT registration number:.....

31.3. Company registration number:.....

31.4. TYPE OF COMPANY/ FIRM

- ☐ Partnership/Joint Venture / Consortium
- ☐ One person business/sole propriety
- ☐ Close corporation
- ☐ Company
- ☐ (Pty) Limited

[TICK APPLICABLE BOX]

31.5. DESCRIBE PRINCIPAL BUSINESS ACTIVITIES

.....

.....

.....

.....

31.6. COMPANY CLASSIFICATION

- ☐ Manufacturer
- ☐ Supplier
- ☐ Professional service provider
- ☐ Other service providers, e.g. transporter, etc.

[TICK APPLICABLE BOX]

31.7. Total number of years the company/firm has been in business:.....

31.8. I/we, the undersigned, who is / are duly authorised to do so on behalf of the company/firm, certify that the points claimed, based on the B-BBE status level of contributor indicated in paragraphs 1.4 and 6.1 of the foregoing certificate, qualifies the company/ firm for the preference(s) shown and I / we acknowledge that:

- i) The information furnished is true and correct;
- ii) The preference points claimed are in accordance with the General Conditions as indicated in paragraph 1 of this form;
- iii) In the event of a contract being awarded as a result of points claimed as shown in paragraphs 1.4 and 6.1, the contractor may be required to furnish documentary proof to the satisfaction of the purchaser that the claims are correct;
- iv) If the B-BBEE status level of contributor has been claimed or obtained on a fraudulent basis or any of the conditions of contract have not been fulfilled, the purchaser may, in addition to any other remedy it may have –
 - (a) disqualify the person from the bidding process;
 - (b) recover costs, losses or damages it has incurred or suffered as a result of that person's conduct;
 - (c) cancel the contract and claim any damages which it has suffered as a result of having to make less favourable arrangements due to such cancellation;
 - (d) recommend that the bidder or contractor, its shareholders and directors, or only the shareholders and directors who acted on a fraudulent basis, be

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

restricted by the National Treasury from obtaining business from any organ of state for a period not exceeding 10 years, after the *audi alteram partem* (hear the other side) rule has been applied; and

(e) forward the matter for criminal prosecution.

WITNESSES

1.

2.

.....
SIGNATURE(S) OF BIDDERS(S)

DATE:

ADDRESS

.....

.....

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 9: SBD 9 CERTIFICATE OF INDEPENDENT BID DETERMINATION

CERTIFICATE OF INDEPENDENT BID DETERMINATION

- 1 This Standard Bidding Document (SBD) must form part of all bids/quotes¹ invited.
- 2 Section 4 (1) (b) (iii) of the Competition Act No. 89 of 1998, as amended, prohibits an agreement between, or concerted practice by, firms, or a decision by an association of firms, if it is between parties in a horizontal relationship and if it involves collusive bidding (or bid rigging).² Collusive bidding is a *pe se* prohibition meaning that it cannot be justified under any grounds.
- 3 Treasury Regulation 16A9 prescribes that accounting officers and accounting authorities must take all reasonable steps to prevent abuse of the supply chain management system and authorizes accounting officers and accounting authorities to:
 - a. disregard the bid of any bidder if that bidder, or any of its directors have abused the institution's supply chain management system and or committed fraud or any other improper conduct in relation to such system.
 - b. cancel a contract awarded to a supplier of goods and services if the supplier committed any corrupt or fraudulent act during the bidding process or the execution of that contract.
- 4 This SBD serves as a certificate of declaration that would be used by institutions to ensure that, when bids are considered, reasonable steps are taken to prevent any form of bid-rigging.
- 5 In order to give effect to the above, the attached Certificate of Bid Determination (SBD 9) must be completed and submitted with the bid:

¹ Includes price quotations, advertised competitive bids, limited bids and proposals.

² Bid rigging (or collusive bidding) occurs when businesses, that would otherwise be expected to compete, secretly conspire to raise prices or lower the quality of goods and / or services for purchasers who wish to acquire goods and / or services through a bidding process. Bid rigging is, therefore, an agreement between competitors not to compete.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SBD 9

CERTIFICATE OF INDEPENDENT QUOTATION/PROPOSAL DETERMINATION

I, the undersigned, in submitting the accompanying quote:

DESCRIPTION: APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR LEGAL TRANSACTIONAL ADVISORS FOR AFRICAN EXPLORATION MINING AND FINANCE CORPORATION (SOC) LTD ("AEMFC") FOR A PERIOD OF THREE (3) YEARS. AE/VLAK012/2023.

(Quote Number and Description)

in response to the invitation for the quote made by:

African Exploration Mining and Finance Corporation (SOC) Ltd

(Name of Institution)

do hereby make the following statements that I certify to be true and complete in every respect:

I certify, on behalf of: _____ that:

(Name of Bidder)

1. I have read and I understand the contents of this Certificate;
2. I understand that the accompanying bid will be disqualified if this Certificate is found not to be true and complete in every respect;
3. I am authorized by the bidder to sign this Certificate, and to submit the accompanying bid, on behalf of the bidder;
4. Each person whose signature appears on the accompanying bid has been authorized by the bidder to determine the terms of, and to sign the bid, on behalf of the bidder;
5. For the purposes of this Certificate and the accompanying bid, I understand that the word "competitor" shall include any individual or organization, other than the bidder, whether or not affiliated with the bidder, who:
 - (a) has been requested to submit a bid in response to this bid invitation;
 - (b) could potentially submit a bid in response to this bid invitation, based on their qualifications, abilities or experience; and
 - (c) provides the same goods and services as the bidder and/or is in the same line of business as the bidder.

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SBD 9

6. The bidder has arrived at the accompanying bid independently from, and without consultation, communication, agreement or arrangement with any competitor. However communication between partners in a joint venture or consortium³ will not be construed as collusive bidding.
7. In particular, without limiting the generality of paragraphs 6 above, there has been no consultation, communication, agreement or arrangement with any competitor regarding:
 - (a) prices;
 - (b) geographical area where product or service will be rendered (market allocation)
 - (c) methods, factors or formulas used to calculate prices;
 - (d) the intention or decision to submit or not to submit, a bid;
 - (e) the submission of a bid which does not meet the specifications and conditions of the bid; or
 - (f) bidding with the intention not to win the bid.
8. In addition, there have been no consultations, communications, agreements or arrangements with any competitor regarding the quality, quantity, specifications and conditions or delivery particulars of the products or services to which this bid invitation relates.
9. The terms of the accompanying bid have not been, and will not be, disclosed by the bidder, directly or indirectly, to any competitor, prior to the date and time of the official bid opening or of the awarding of the contract.

³ **Joint venture or Consortium means an association of persons for the purpose of combining their expertise, property, capital, efforts, skill and knowledge in an activity for the execution of a contract.**

10. I am aware that, in addition and without prejudice to any other remedy provided to combat any restrictive practices related to bids and contracts, bids that are suspicious will be reported to the Competition Commission for investigation and possible imposition of administrative penalties in terms of section 59 of the Competition Act No 89 of 1998 and or may be reported to the National Prosecuting Authority (NPA) for criminal investigation and or may be restricted from conducting business with the public sector for a period not exceeding ten (10) years in terms of the Prevention and Combating of Corrupt Activities Act No 12 of 2004 or any other applicable legislation.

.....

Signature

.....

Date

.....

Position

.....

Date

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 10: RESOLUTION TO SIGN ON BEHALF OF COMPANY

32. RESOLUTION TO SIGN ON BEHALF OF COMPANY

Resolution to sign on behalf of Company

RESOLUTION of a meeting of the Board of "Directors / Members / Partners of:

.....
(legally correct full name and registration number, if applicable, of the Enterprise)

held at (place).....

on (date).....

RESOLVED that:

- 1 The Enterprise submits a Tender to in respect of the following:

Tender Reference Number: **AE/VLAK012/2023:**

APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR LEGAL TRANSACTIONAL ADVISORS FOR AFRICAN EXPLORATION MINING AND FINANCE CORPORATION (SOC) LTD ("AEMFC") FOR A PERIOD OF THREE (3) YEARS.

- 2 *Mr/Mrs/Ms in *his/her capacity as:

.....(position)

And who will sign as follows: (Signature)
and is hereby, authorised to sign the Tender and all other documents and/or correspondence in connection with and relating to the EOI, as well as to sign any Contract, and any and all documentation, resulting from the award of any project to the Enterprise mentioned above.

	NAME	CAPACITY	SIGNATURE
1.			
2.			
3.			
4.			
Note: *Delete which is not applicable NB: This resolution must be signed by <u>all</u> the Directors / Members / Partners of the Tendering Enterprise or majority of directors of the Tendering Enterprise. - Should the number of Directors / Members / Partners exceed the space available above, additional names and signatures must be supplied on a separate page.			ENTERPRISE STAMP

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 11: REGISTRATION OF PROSPECTIVE BIDDERS FORM
CERTIFICATE OF ATTENDANCE OF NON-COMPULSORY RFP BRIEFING

33. REGISTRATION OF PROSPECTIVE BIDDERS FORM

DESCRIPTION: APPOINTMENT OF A PANEL OF SERVICE PROVIDERS FOR LEGAL TRANSACTIONAL ADVISORS FOR AFRICAN EXPLORATION MINING AND FINANCE CORPORATION (SOC) LTD ("AEMFC") FOR A PERIOD OF THREE (3) YEARS.

BID NUMBER: AE/VLAK012/2023.

DATE OF BRIEFING SESSION: 26 October 2023

TIME: 10:00 ± 2 hours

VENUE: MICROSOFT TEAMS

REGISTRATION OF PROSPECTIVE BIDDERS FORM

All interested bidders must register their interests to attend a **[non-compulsory]** briefing session by completing this form and return to tender@aemfc.co.za by **25 October 2023**.

It should be noted that this e-mail address is not to be used for the submission of tender proposals.

Tel/ mobile no: Email address:

.....
ENTITY'S NAME

.....
BIDDER'S NAME

.....
DATE

Bidders are to submit the "REGISTRATION OF PROSPECTIVE BIDDERS FORM" for the non-compulsory briefing session attendance by 25 October 2023 to be able to attend the RFP briefing.

This is to ensure that AEMFC may make the necessary arrangements for the briefing session.

Note: The submission of the Registration of Prospective Bidders Form is not disqualifying. The onus is upon the bidders to ensure attendance.

A Certificate of Attendance in the form set out in **Section 12** hereto must be completed and submitted with your Proposal as proof of attendance is required for the **non-compulsory** RFP briefing.

Despite the briefing session being **non-compulsory**, AEMFC nevertheless encourages all Respondents to attend. AEMFC will not be held responsible if any Respondent who did not attend the **non-compulsory** session subsequently feels disadvantaged as a result thereof.

Respondent's Signature

Date & Company Stamp

Description: Appointment of a Panel of Service Providers for Legal Transactional Advisors for African Exploration Mining and Finance Corporation (SOC) LTD ("AEMFC") for a period of three (3) years.

SECTION 12: CERTIFICATE OF ATTENDANCE OF NON-COMPULSORY RFP BRIEFING**CERTIFICATE OF BRIEFING SESSION ATTENDANCE**

It is hereby certified that –

1.

2.

Representative(s) of [name of entity]

As the Bidder's Authorised Representative, have attended the Briefing Session in respect of the proposed [Services] to be rendered in terms of this RFP on20.....

I have satisfied myself with regard to all conditions and other factors which may affect the Bidder's bid. I have obtained all necessary information as to risks, contingencies, and other circumstances which may influence or affect the Bidder's bid.

.....
AEMFC'S REPRESENTATIVE
NAME:

.....
RESPONDENT'S REPRESENTATIVE
NAME

.....
AEMFC'S REPRESENTATIVE
SIGNATURE:

.....
RESPONDENT'S REPRESENTATIVE
SIGNATURE:

DATE

DATE:

EMAIL:.....

NOTE:

This certificate of attendance must be filled in duplicate, one copy to be kept by AEMFC and the other copy to be kept by the bidder.

Respondent's Signature

Date & Company Stamp