

TERMS OF REFERENCE

LEGAL & INVESTMENT TRANSACTION SUPPORT

1. Introduction

FSD Africa (Investments) Ltd (“FSDAi”) wishes to contract qualified, experienced lawyers or legal firms (the “Consultant”) on a retainer basis to advise the company in the performance of its functions and the discharge of its duties in accordance with prevailing laws and regulations, and to provide investment transaction support upon request (the “Services”) to its subsidiary investment company.

FSDAi’s requirements for advisory support are varied and will necessitate working with a wide range of stakeholders both internally and externally. We would like to identify firms with whom FSDAi can call on to work on specific assignments as and when needed.

2. FSDAi / FSD Africa

FSDAi is the investment arm of FSD Africa, which is a specialist development agency working to reduce poverty by strengthening financial markets across sub-Saharan Africa. Based in Nairobi, FSD Africa’s team of financial sector experts work alongside governments, business leaders, regulators and policy makers to design and build ambitious programmes that make financial markets work better for everyone. Incorporated in 2015, FSD Africa is a non-profit company limited by guarantee in Kenya. It is funded by UK aid from the UK government.

FSD Africa transforms financial markets in sub-Saharan Africa and the economies they serve to create jobs, build resilience and reduce poverty. It does this through technical know-how, capacity support, market insights, and grants. Where there are opportunities to drive financial market transformation more quickly and intensively through capital investment, FSD Africa will deploy equity, loans or guarantees as the situation requires, through FSDAi.

FSDAi finances high risk businesses and funds operating in the financial sector that have potential for high impact in financing the real economy and bringing about systemic financial market change. FSDAi is set up as a separate legal entity from FSD Africa but shares a common governance structure and operational policies with FSD Africa.

Please visit www.fsdafrica.org for more information.

3. Scope of work

The scope of work includes tasks that may be requested by FSDAi on an ongoing support basis as well as in relation to particular one-off assignments or transactions.

FSDAi invests in financial firms and funds that are uniquely placed to transform financial markets. Investment entities include fintech companies, private equity and credit funds, specialised financial service providers (e.g. factoring, affordable housing finance, leasing, digital payments, health care finance), and other specialised companies operating as financial firms and or enablers (e.g. technology providers).

- Legal Support

FSDAi requires legal services for the legal due diligence and the transaction documentation, as well as tax and corporate governance for its investments in banking, finance and capital markets in Africa. In most cases the investment opportunities are multi-geographical and require legal expertise in different jurisdictions. For example, a company may be registered in Mauritius, UK, Europe or USA

and have operations in a number of African jurisdictions. An investment may also be in a single African country jurisdiction.

- Investment Transaction Support

From time to time it will require the services of an investment transaction advisor to support the investment team on:

- Commercial and financial due diligence including financial modelling of transactions
- Market and competitor analysis - sector specific as it relates to credit/debt, equity, and insurance finance in housing, digital economy, health, capital markets, climate and conservation, and start-up/early stage businesses
- Company and portfolio valuations.

4. Timing and deliverables

The services of Consultant are required for one year commencing from the date of coming into force of the agreement; which may be extended for another year subject to mutual agreement.

5. Request for Proposals

FSD Africa is seeking proposals from qualified, experienced lawyers or legal firms for legal and investment transaction support.

Proposals should contain:

- names, curriculum vitae of personnel
- full daily rate inclusive of all overheads (indicating clearly whether the rate quoted includes necessary taxes - such as withholding, and value added)
- details of relevant previous experience.
- at least three references from organisations in the Development and/or Investment sectors

Proposal documents should be as concise as possible and not exceed a total of 5 pages (excluding annexes). Proposals exceeding this limit may be disqualified. This should be sent by email to FSD Africa at by noon (EAT) on Tuesday 4 June 2020 under a subject line reading **‘Invitation to tender: legal and investment transaction support.**

Applications received after the deadline will not be considered.

6. Basis of award

Mandatory requirements	
Reputable legal firm specialising in corporate, commercial, employment law	
Relevant professional experience - at least 10 years’ experience	
Recognition by relevant legal rating agencies - Chambers Global, IFLR 1000 or Legal 500	
Membership to a professional organization	

Assessment criteria	Weighting (%)
Relevant professional experience and qualifications of proposed team	30%
Track record in relevant areas of expertise sought	25%
Cost	25%
Responses from referees	20%
Total	100%

7. Contact

Questions or comments in respect of these terms of reference should be directed by email to: bids@fsdafrica.org on or before 12 noon (EAT) 25 May 2020, and a response will be provided by 12 noon (EAT) on 28 May 2020.

8. Applicable Taxes

As per Kenya's tax law, FSD Africa will pay the Consultant after withholding the appropriate taxes at the applicable rate between Kenya and the Consultant's country of tax residence, considering any tax treaties in force. It is the responsibility of the Consultant to keep themselves apprised of these applicable taxes. The below table however provides guidance on the applicable rates as per tax regimes:

Country	WHT Rate
Kenya	5%
United Kingdom	12.5%
Canada	15%
Germany	15%
Zambia	15%
India	10%
Non-resident rate for citizens of EAC member countries	15%
All other countries	20%