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## TERMS OF REFERENCE

### CALL FOR PROPOSALS

# PROVISION OF LEGAL AND TAX DUE DILIGENCE AND TRANSACTION DOCUMENTATION SERVICES WITH RESPECT TO A PROPOSED INVESTMENT IN INDLU PROPERTY PARTNERS WAREHOUSE FACILITY AND SOCIAL BOND

## 1. Introduction

FSD Africa Investments (“FSDAi”) wishes to contract a consultant (the “Consultant”) to provide legal due diligence and transaction documentation services with respect to its proposed investment of ZAR [151] million into Indlu Property Partners (IPP), comprising a Warehouse Facility of (ZAR [111] million) and a Social Bond of (ZAR [40] million). The consultant will provide FSDAi with all necessary legal and tax advice and support during negotiations and drafting required for the proposed transaction, as required.

The following TORs sets out the role and scope of work.

## 2. Project Background

### 2.1 FSD Africa

FSD Africa 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. Established in 2012, FSD Africa is incorporated as a non-profit company limited by guarantee in Kenya. It is funded by UK aid from the UK government’s Foreign, Commonwealth and Development Office (FCDO). ([www.fsdafrica.org](http://www.fsdafrica.org))

### 2.2 FSD Africa Investments

FSDAi is the investment arm of FSD Africa. 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. As such, 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.

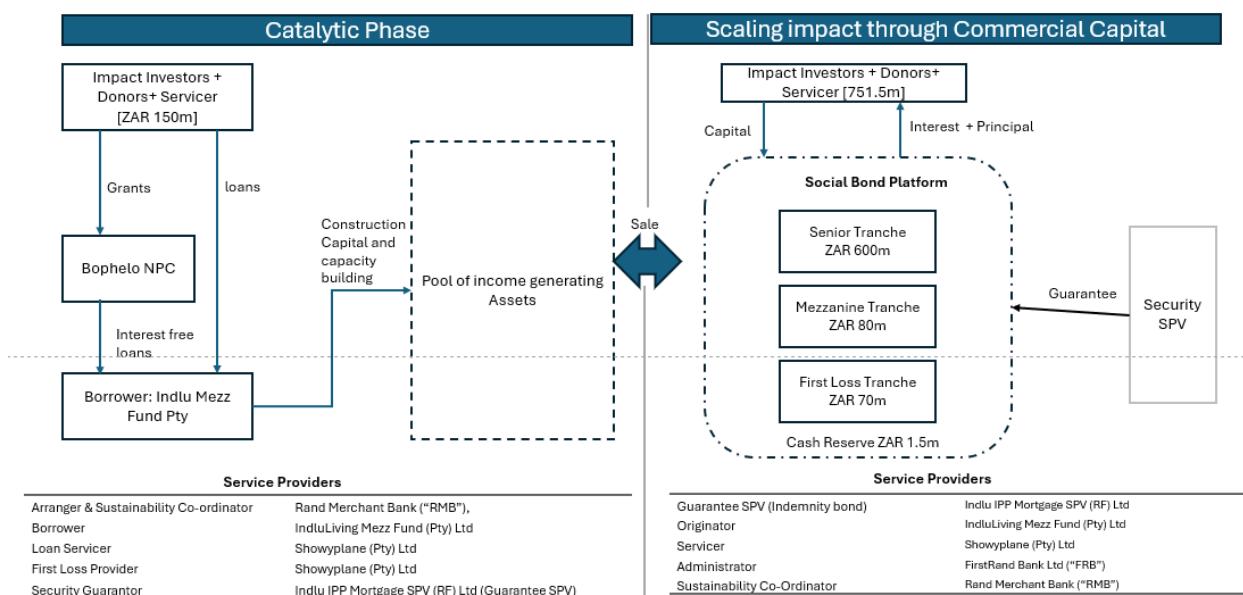
### 2.3 Indlu Property Partners

IndluLiving (Indlu or Sponsor) is a South Africa-domiciled housing finance and development company that empowers township landowners and micro-developers to build and manage affordable rental housing through a vertically integrated model combining property finance, construction oversight, rental management, and digital technology. The word "Indlu" means house or home in several Southern African languages.

Founded in 2017, IndluLiving has financed over ZAR 300 million in housing projects, creating more than 2,200 rental units and generating over 3,100 jobs, including permanent and medium-term roles in construction and property services.

## 2.4 The Transaction

IndluLiving is launching a ZAR 750 million social bond programme, supported by a ZAR 150 million warehousing facility, to securitise its IPP loan portfolio and crowd in commercial and concessional capital. The warehouse facility will originate and season affordable rental property development loans until post construction. The warehouse facility will then do batched sell-downs to the securitisation SPV/social bond platform (Issuer SPV) with proceeds recycled to advance more loans, until maturity of the warehouse, at which point, the proceeds from the sale of the last cohort of IPP loans will be used to settle the warehouse facility. The expected term of the warehouse to get to required amount ranges between 2-3 years, depending on the frequency at which eligible IPP loan cohorts are sold to the Issuer SPV.



## 3. Engagement Scope

### 3.1 Objective

The purpose of the assignment is to conduct legal due diligence on key counterparties to ensure that they are fit for purpose, and that the structure of the envisaged transaction is line with best practice, and South Africa laws and regulations. Once this has been ascertained, the consultant will review the tax implications of the transaction on FSDAi as a Kenya-registered and domiciled entity and then support for negotiation and documentation to consummate the investment.

### 3.2 Scope of work

The services will be rendered in three (3) parts and the specific activities of the consultancy will include but not be limited to:

**Part 1a: Conduct a legal and tax due diligence on key transaction counterparties including Showyplane (Pty) Ltd (servicer), the borrower (IndluLiving Mezz Fund (Pty) Ltd) and/or Indlu IPP mortgage SPV (RF) Ltd (security guarantor).**

The legal due diligence is intended to cover:

- (i) Review corporate documents, formation documents, constitutional documents and agreements relating to the counterparties' structure, property, and assets; licenses, key financial agreements and litigation (if any), insurance etc.

- (ii) Review of existing contractual arrangements with financiers including but not limited to loan agreements, shareholder agreements, grant agreements, royalty agreements, and any other material agreements etc., checking for conflicts with FSDAi's intended financing, breach of terms/covenants, etc.
- (iii) As pertains the warehouse facility's servicer and borrower a review of the overall corporate structure and shareholder respectively.
- (iv) Review regulatory legal opinion pertaining to the servicer adherence to relevant national and local government laws and regulations
- (v) Review material contracts such as key staff employment contracts to identify potential exposure that could adversely impact FSDAi's investment

**Part 1b: Review of the structure of the envisaged transaction relative to existing laws in South Africa**

- (i) To review the envisaged sequence of events such as but not limited to the transfer of assets from the warehouse facility;

**Part 2: Coordinating with the Borrower's/issuer's legal team, the Consultant will provide (i) negotiation and transaction documentation services and (ii) support in signing and closing as described herein.**

The consultant will provide transaction documentation services to FSDAi, including but not limited to:

- (i) Review and negotiate transaction documentation including the term sheet, facility agreement, common terms agreement, side letter(s), and any other relevant documentation necessary to give effect to the transaction.
- (ii) To review relevant agreements for both the warehouse structure and social bond including the security cessation agreement, servicing agreement, sustainability coordination agreement
- (iii) review the resolutions to authorise/ratify the transactions, drafting and filing of the statutory documentation to give effect to FSDAi's investment
- (iv) Assisting in the documentation of conditions precedent to financial close and tracking their fulfilment.
- (v) Review regulatory compliance legal opinions from the borrower's counsel covering sector specific laws and regulations relating to securitisations
- (vi) Gauge FSDAi's cross exposure to the other interests of relevant counterparties and if necessary, make the necessary carve outs within the transaction documents.

**Part 3: Tax Due Diligence**

- (i) Review of tax compliance status.
- (ii) The Consultant will provide a tax opinion on the tax and foreign exchange regulation implications of this investment to FSDAi as a Kenya incorporated and domiciled entity, which is regulated under Kenya tax regulations..

**Note:** Bidders may include, within their proposal, other items as part of the scope that they deem necessary for the closure of the transaction. These will be included in the final scope of engagement at FSDAi's sole discretion.

**4. Timing and deliverables**

The deliverables and milestones for the work detailed above is as follows:

Deliverable	Indicative Timelines
Draft legal, and tax due diligence reports*	14 March 2026
Final legal, and tax due diligence reports*	21 March 2026
Final Form Transaction Documentation and Closing	31 March 2026

\*Reports will be on an exceptional basis, highlighting material matters/findings.

## 5. Invitation to bid

FSDAi is inviting proposals from suitably qualified firms for the role of the Consultant.

Your proposal should contain:

- CVs (maximum one side of A4 paper each) of key individuals, tailored to the assignment;
- Outline of team structure, including roles and responsibilities of team members;
- A summary of your relevant experience for the assignment including a minimum of three (3) client reference statements as a testament to the relevant work experience;
- A short description of your understanding of the role of the Consultant and the approach to be used as outlined in these Terms of Reference;
- A description of how you intend to fulfil the Services within the suggested timeline and confirmation of your ability to meet the timelines; and,
- An itemised budget for both professional fees and reimbursable expenses, including fee rates, number of days and a breakdown of expenses in the format set out in annex 1. The fees should be broken down with costings for each phase/part of the assignment and inclusive of taxes.

Your proposal, which should not exceed six pages (excluding annexures) and should be sent by email to [bids@fsdafrica.org](mailto:bids@fsdafrica.org) by **12:00 PM East Africa Time on 23 February 2026** under a subject line reading '**Call for Proposals: Legal & Tax Due Diligence- Indlu**'

## 6. Basis of award

FSDAi will award a contract to the Consultant based on the following criteria, using the most economically advantageous tender approach:

Mandatory requirements
Firm/individuals must be able to demonstrate at least 5 years of experience in similar real estate debt and securitisation assignments with specifically relevant experience in advising investors like FSDAi. Experience in affordable housing will be an added advantage.
Firm/individuals must be able to demonstrate at least 5 years of experience in South African and Kenyan law.
Firm to provide practicing certificate, and certificate of good standing from the relevant regulating body.
Firm to provide 3 client reference statements as a testament to the relevant work experience
The team lead should demonstrate 7 years' experience and capacity in debt capital markets, securitisation and private debt legal due diligence and drafting of transaction documents such as named in the ToR

Assessment criteria	Weighting (%)
Demonstrated ability and experience to deliver in the assignment outlined in this Terms of Reference (evidenced by previous similar assignments, client references etc). A team lead with at least 7 years relevant experience in legal due diligence and transaction documentation services of South African capital markets transactions. Demonstrated value add.	35%
Content, quality and originality of proposal and understanding/interpretation of the task set out in the TORs, including detailed workplan and ability to deliver within stipulated timelines.	20%
Supplier's demonstration of sustainability value add: Bidders that demonstrate localisation, gender, environmental and ethical considerations will be assigned merit points/scored favourably compared to their competitors; Localisation: demonstrated use of African based consultants/team members - 5% Gender – prioritisation of women & underrepresented groups -5% Environmental safeguards and ethical considerations (a commitment to sustainability through eco-friendly practices, products/services as well as ethical practices such as fair treatment of employees)-5%	15%
Fee basis and total costs  FS = 30% x LB/BP where:  FS = is the financial score LB = is the lowest bid quoted BP = is the bid of the proposal under consideration.  The lowest bid quoted will be allocated the maximum score of 15%.  <b>Fee quoted must be inclusive of taxes and expenses where applicable.</b>	30%
<b>Total</b>	<b>100%</b>

## 7. Contact

Questions or comments in respect of these terms of reference should be directed by email to [bids@fsdafrica.org](mailto:bids@fsdafrica.org) by **12:00 PM East Africa Time on 16 February 2026**. If relevant, responses to these questions will be published as an addendum on our website by **12:00 PM East Africa Time on 18 February 2026**

## 8. Applicable Taxes

**As per Kenya's tax law, FSDAi 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%
India	10%
Non-resident rate for citizens of EAC member countries (member countries attached)	15%
All other countries	20%

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**Annex 1: Proposed Fee Schedule**

Costs should be shown separately in the format set out below. Fees proposed by tenderers should be inclusive of all taxes.

Consultancy Fees*	Days	Fee USD/GBP	Total USD/GBP
XX			
XX			
Total Remuneration			0.00
Reimbursement Costs**	Unit	Cost USD/GBP	Total USD/GBP
XX			
XX			
Total Reimbursement cost			
Total proposed costs			0.00

\*Fees including of all taxes

\*\*Expenses to be reimbursed on actual costs as per FSD Africa's travel policy