



Projects & Infrastructure

2025 Power Guide:
Zambia

**ONE REGION
ONE VISION
ONE ALN**

Introduction

This power guide has been prepared by ALN Zambia | Musa Dudhia & Company (ALN Zambia) and provides an overview of Zambia's power sector. The aim of this

guide is to provide useful information to investors and stakeholders on legal aspects of the industry, such as applicable regulatory standards and tariffs.

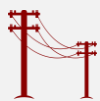
Governing Law



- The Constitution of Zambia Chapter 1 of the Laws of Zambia, as amended by Amendment Act No 2 of 2016
- The Lands and Deeds Registry Act Chapter 185 of the Laws of Zambia
- The Public Finance Management Act, 2018
- Public Debt Management Act No 15 of 2022
- The Water Resources Management Act of 2011
- The Zambezi River Authority Act, Chapter 467 of the laws of Zambia
- The Income Tax Act Chapter 323 of the Laws of Zambia
- The Energy Regulation (General) Regulations 2023
- The National Energy Policy 2019
- The Renewable Energy Strategy and Action Plan 2022
- The Rural Electrification Master Plan
- The Electricity (Open Access) Regulations of 2024
- **Statutes:**
 - The Energy Regulation Act No 12 of 2019
 - The Electricity Act No 11 of 2019
 - The Rural Electrification Act No 5 of 2023
- **Other laws, regulations, and policies, including:**
 - The Public-Private Partnership Act No 18 of 2023
 - The Public Procurement Act No 8 of 2020
 - The Investment Trade and Business Development Act No 18 of 2022
 - The Environmental Management Act No 12 of 2011
 - The Companies Act No 10 of 2017
 - The Lands Act Chapter 184 of the Laws of Zambia

Institutional Framework

Energy Regulation Board (ERB)



ERB is the statutory regulatory body responsible for regulating the energy sector in Zambia. It regulates undertakings and utilities in the energy sector including electricity, petroleum and other forms of energy production and distribution through the issuance of licenses. Its key functions include inter alia licensing, tariff regulation and review, reviewing and approving power purchase agreements and power supply agreements, promoting development within the energy sector, making recommendations to the Minister of Energy on sector related matters and enforcing compliance with applicable laws and regulations.

Ministry of Energy



The Ministry of Energy is responsible for the sustainable development and management of Zambia's energy resources for national benefit. Its mandate includes the formulation and implementation of energy policies and the development of renewable energy sources. The Ministry also oversees key statutory bodies and parastatals in the energy sector including the Energy Regulation Board, the Rural Electrification Authority and ZESCO Limited.

ZESCO Limited (“ZESCO”)



ZESCO is a government owned national power utility company responsible for the generation, transmission, distribution and supply of electricity across the country and the Sub-Saharan region. Zambia predominantly operates under a single-buyer model in which ZESCO is the off-taker for power generated by independent power producers.

The Rural Electrification Authority (“REA”)



REA is an agency established under the Rural Electrification Act to promote and facilitate access to electricity in rural and peri-urban areas of the country.

Zambia Development Agency (“ZDA”)



ZDA is the regulatory body responsible for the promotion and regulation of investment in Zambia. The Agency is also responsible for building and enhancing Zambia’s investment profile for increased capital inflows, capital formation, employment creation, and growth of the Medium Small and Micro Enterprise (MSME) Sector.

Zambia Environmental Management Agency (“ZEMA”)



ZEMA is established under the Environmental Management Act of 2011. It is responsible for overseeing environmental management including the prevention and control of pollution and environmental degradation in the country. ZEMA plays a critical role in regulating the environmental impact of power generation projects.

Water Resource Management Authority (“WARMA”)



WARMA is the authority responsible for water resource management and development in the country. WARMA is empowered to exercise control over all water resources in Zambia, and in doing so it grants permits and licences for the right to use water for various purposes under the Water Resources Management Act including power generation.



Power Purchase Agreement (PPA) Between the Independent Power Producer (IPP) and ZESCO

- The term of a PPA is typically 20 – 25 years.
- Take or pay structures are typically used.
- Zambian laws do not provide for deemed generated energy payments, but the parties may include contractual obligations to this effect in the PPA.
- As a general guide, the PPA tariff is usually composed of fixed and variable charges. The capacity charge (i.e., for dispatched plants) and energy charges constitute the fixed and variable charges respectively. It is not however, uncommon for PPAs to have other charges (supplemental charges) – usually set to recover any other costs (such as start-up costs), or for providing any other services (such as reactive support, reserve energy, and black-start capability). Different PPAs will contain different balances of fixed and variable charges, and therefore pricing terms need to be converted into an average cost for a meaningful comparison.
- Tariffs are determined contractually by negotiation between ZESCO and the IPPs, or where a tender process is used, by a competitive bidding process. The agreed tariff is subject to ERB approval who may, in rare circumstances request the parties to vary the tariff.
- Adjustments to the tariff may be possible upon the occurrence of certain events, including changes in laws and taxes.
- The PPAs typically provide for payments from ZESCO to the IPPs to be made in United States Dollars. However, the parties are free to decide to use local currency.
- A PPA typically provide for payment within 30 to 45 days after receipt of invoice, but this is typically, dependant on the negotiations between the IPP and ZESCO. ERB reviews the PPA including the tariff and tariff structure and therefore the tariff structures under the PPA are subject to regulatory approval.

Local Shareholding and Local Content Requirements

- There are no specific restrictions on ownership of shares by foreign investors in a project company in Zambia. However, foreign investors are required to register project companies in Zambia with the Registrar of Companies, and companies registered in Zambia are required to have at least half of their director's resident in Zambia.
- This does not suggest that any directors resident in Zambia cannot be foreign directors.
- There are restrictions relating to land ownership by foreigners in Zambia, which have an impact on the land ownership arrangements for power projects. Foreign-owned IPPs can however own land by obtaining an investment licence under the Investment Trade and Business Development Act.

Payments to the ZESCO

Typically, IPPs may pay liquidated damages for:

- Delay in reaching the Commercial Operations Date; and
- Failing to meet the availability thresholds during the operations of the plant.

Feed-in Tariffs (FIT) Policy

- In 2017, Zambia adopted a renewable energy Feed-in Tariff (REFiT) strategy to accelerate private party investments in small-medium sized renewable projects of up to 20MW.
- Additionally, the government with the support from the German Government has been implementing the Global Energy Transfer-Feed-in Tariff (GET FiT) Zambia program which is designed to assist with the implementation of the REFiT strategy. The objectives of GET-FiT Zambia are to:
 - i. enable the procurement of up to 200MW of renewable energy capacity as GET FiT Zambia has become the official implementation program for the REFiT strategy;
 - ii. contribute to diversifying Zambia's power mix (both with regards to project size and geographically) while ensuring cost-effective and environmentally and socially sustainable projects to maximise the value for Zambian end users;
 - iii. introduce standardized legal documentation for IPPs in Zambia and improving regulatory & licencing procedures;
 - iv. successfully integrate the procured renewable energy into the national grid; and
 - v. promotion of competition and private sector participation in the Zambian power sector.

Credit Enhancements

- Sovereign guarantees in Zambia are provided in limited circumstances for the repayment of a loan where such loan is borrowed by a body corporate, statutory corporation, local authority or a company in which shares are held by or on behalf of the government. In the past, the Government, through the Minister of Finance, guaranteed some of the loan facilities obtained by ZESCO or ZESCO's obligations under some of its contractual arrangements under PPAs and/or entered into government support agreements with the IPPs to provide comfort to the IPPs in respect of ZESCO's obligations under the PPAs. However, there are no prescribed requirements or conditions setting out the provision of government support. Further, such support depends on the nature of the project and typically occurs when a government entity partners with the IPP on the power project. Therefore, generally, there are no sovereign guarantees provided by the Government of Zambia. However, credit enhancements may be available through international development finance institutions.
- Partial risk guarantees and political risk insurance have been developed for the Zambian market, as is the case with other developing countries, by the World Bank, Multilateral Investment Guarantee Agency (MIGA), International Development Association (IDA), Africa Development Bank (AFDB) and African Trade Insurance Agency (ATI).

Key Approvals/Licenses Required to be Procured.

- Approval of the PPA by ERB is required before the execution of the PPA
- Construction permits are issued by ERB
- Planning permission is granted by the local council
- Electricity Generation Licences are issued by ERB
- Environmental Impact Assessment (EIA) approval is granted by ZEMA
- Permits for use of water for hydro-electric purposes are issued by WARMA
- Approval for grid connection is obtained from ZESCO
- Registration of the Project with the National Council for Construction

Governing Law and Dispute Resolution

- Parties are at liberty to agree on the governing law of the PPA, provided that they comply with the requirement to submit the PPA to the ERB for approval. Typically, PPAs are governed by Zambian law.
- Parties are at liberty to agree on the dispute resolution mechanism to be relied on for their

PPA. Typically, parties elect to use arbitration as opposed to foreign courts. This is because under the Foreign Judgments (Reciprocal Enforcement) Act, Chapter 76 of the Laws of Zambia, enforcement of foreign judgments in Zambia is based on reciprocity. As Zambia has not passed orders for the reciprocal enforcement of judgments for several jurisdictions, foreign judgments are enforced by the parties either: (i) relitigating the matter on the merits in Zambia; or (ii) using the foreign judgment as a cause of action.

- On the other hand, Zambia is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards, 1958 (New York Convention). Therefore, arbitral awards obtained

in states or territories which are party to the New York Convention are enforceable in Zambia by registration of the arbitral award. Arbitration is therefore generally accepted as a preferred method for dispute resolution. Enforcement of arbitral awards may be subject to challenge under Zambian law under very limited circumstances specified in the Arbitration Act, 2000, including: if the arbitration agreement is invalid under the governing law; a party was not present or no proper notice of hearing was given; the composition of the arbitral tribunal was irregular; enforcement of the award would be contrary to public policy; or the award was induced by corruption, fraud and misrepresentation.

Power Sector Experience

ALN Zambia has worked on key landmark transactions in the country and possesses unique on-the-ground experience in energy deals in Zambia. ALN Zambia has strong business and regulatory relationships enabling

a concise understanding of structuring a deal in light of potential economic, political and financial risk. Specific examples of some of the power deals handed by ALN Zambia are set out below.



Maamba Energy Limited-300 MW Project: Acted for National Pension Scheme Authority, Zambia's statutory pension scheme, and other lenders on a syndicated loan transaction of US\$ 300 million to finance the construction and development of a 300 MW coal powered power project in Zambia developed by Maamba Energy Limited.



Genesis Energy and Power Limited: we provided a comprehensive regulatory overview of the power sector in Zambia for Genesis Energy and Power Limited, an energy infrastructure developer with expertise in the development, operation, and maintenance of power projects in Africa



Enel Green Power: Acting for Aksa Energy Turkey, a Company that participated in a tender by the Government for the procurement of energy power plants in Zambia when Zambia was experiencing a critical power deficit, including negotiating the drafting of a power purchase agreement with ZESCO Limited.



Mamba Collieries: Acting as local counsel to Clifford Chance on behalf of Standard Chartered Bank acting as Intercreditor Agent to provide advice in respect of the Maamba Collieries Limited's (MCL) intention to restructure the tariff arrangements under the power purchase agreement with ZESCO and consequently the financing arrangements under the finance documents.



We acted in a transaction that involved a joint venture between the Qatar Investment Authority and Enel Green Power in respect of Ngonye Power Company which owns a 34MW solar photovoltaic (PIV) plant in Zambia.



Acting as local counsel to an international mining company in connection with the supply of power to ENRC's frontier mine from ZESCO. Power from ZESCO would be wheeled to the mine via a third-party power utility company in Zambia (Copperbelt Energy Corporation, CEC).



International Finance Corporation and the Government of Zambia: Acting as local counsel to the International Finance Corporation and the Government of



Industrial Commercial Bank of China: Acting for the Industrial Commercial Bank of China in connection with the USD 263 million (approx.) finance facility to

Zambia in connection with the USD 1.5 billion Kafue Gorge Dam construction project.

ZESCO Limited. The facility was secured by a guarantee provided by the Minister of Finance. The facility was contracted by ZESCO for purposes of, inter alia, funding 85% of the project costs for the design, manufacturing, construction, testing, delivery, installation, completion and commissioning of the Kasama transmission lines and substations.



Standard Chartered Bank: Acting for Standard Chartered Bank in connection with a transaction involving finance of the Maamba Power Project.



European Investment Bank: Acting for European Investment Bank in connection with three separate financing arrangements with the Government of Zambia for various projects undertaken by ZESCO, including a EUR 50 million loan to develop a hydropower plant and transmission line in Itezhi Tezhi; a 78 million loan to reinforce power transmission and distribution infrastructure in Lusaka; and EUR 22 million loan in relation to the Kafue-Livingstone power transmission line.

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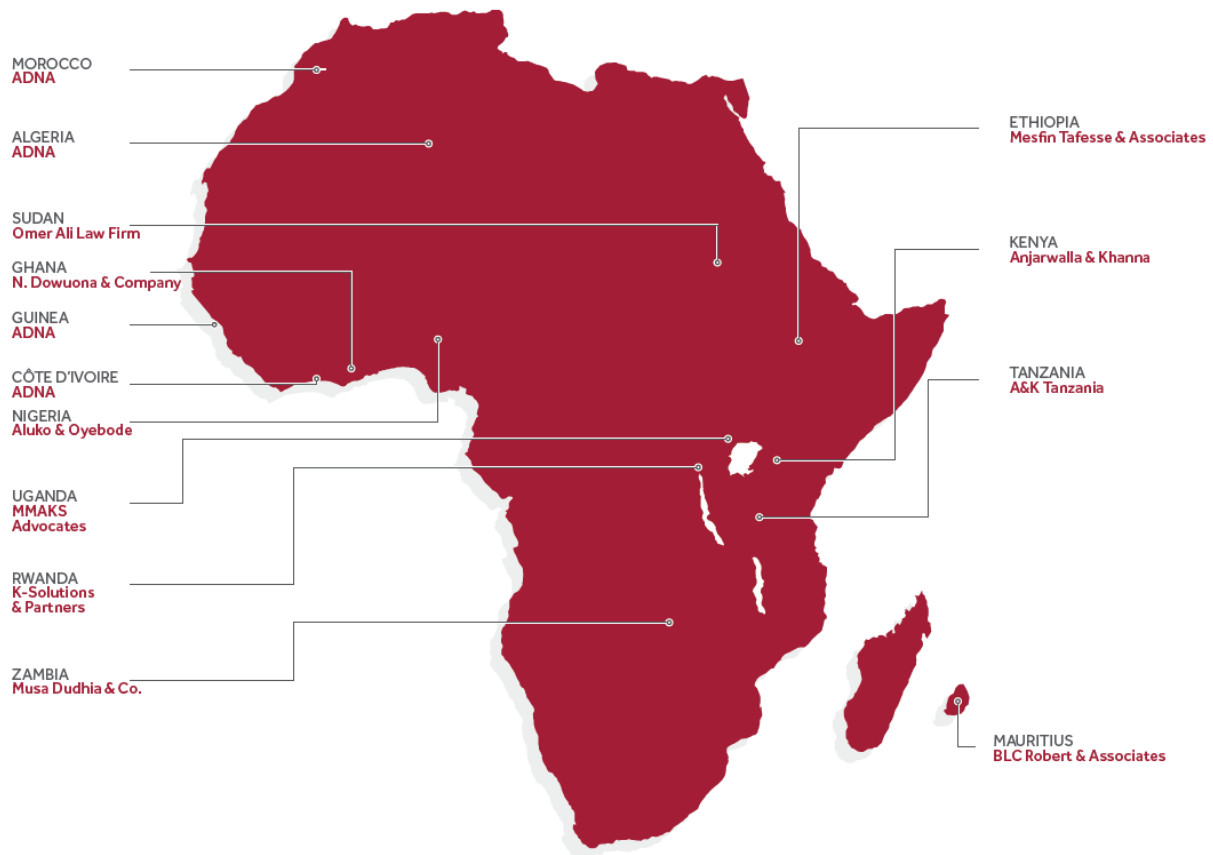
About ALN Zambia

ALN Zambia is a premier law firm based in Zambia, well known as the Firm of choice for corporate and commercial transactions as well as commercial dispute resolution. ALN Zambia is widely recognized for providing regional and international clients with outside-the-box solutions to complex matters whether domestic or multi-jurisdictional.

Our team of lawyers has been involved in a number of sophisticated transactions, across the spectrum of legal areas, including corporate commercial, complex mergers and acquisitions, banking and project finance, infrastructure and projects, real estate, capital markets, insolvency and restructuring, mining, petroleum, energy and telecommunications.



About ALN



ALN is an integrated alliance of the preeminent full-service corporate law firms in 15 African countries: Algeria, Côte d'Ivoire, Ethiopia, Ghana, Guinea, Kenya, Madagascar, Mauritius, Morocco, Nigeria, Rwanda, Sudan, Tanzania, Uganda and Zambia. ALN also has a regional office in Dubai, UAE, which serves as a gateway to the Gulf region and beyond.

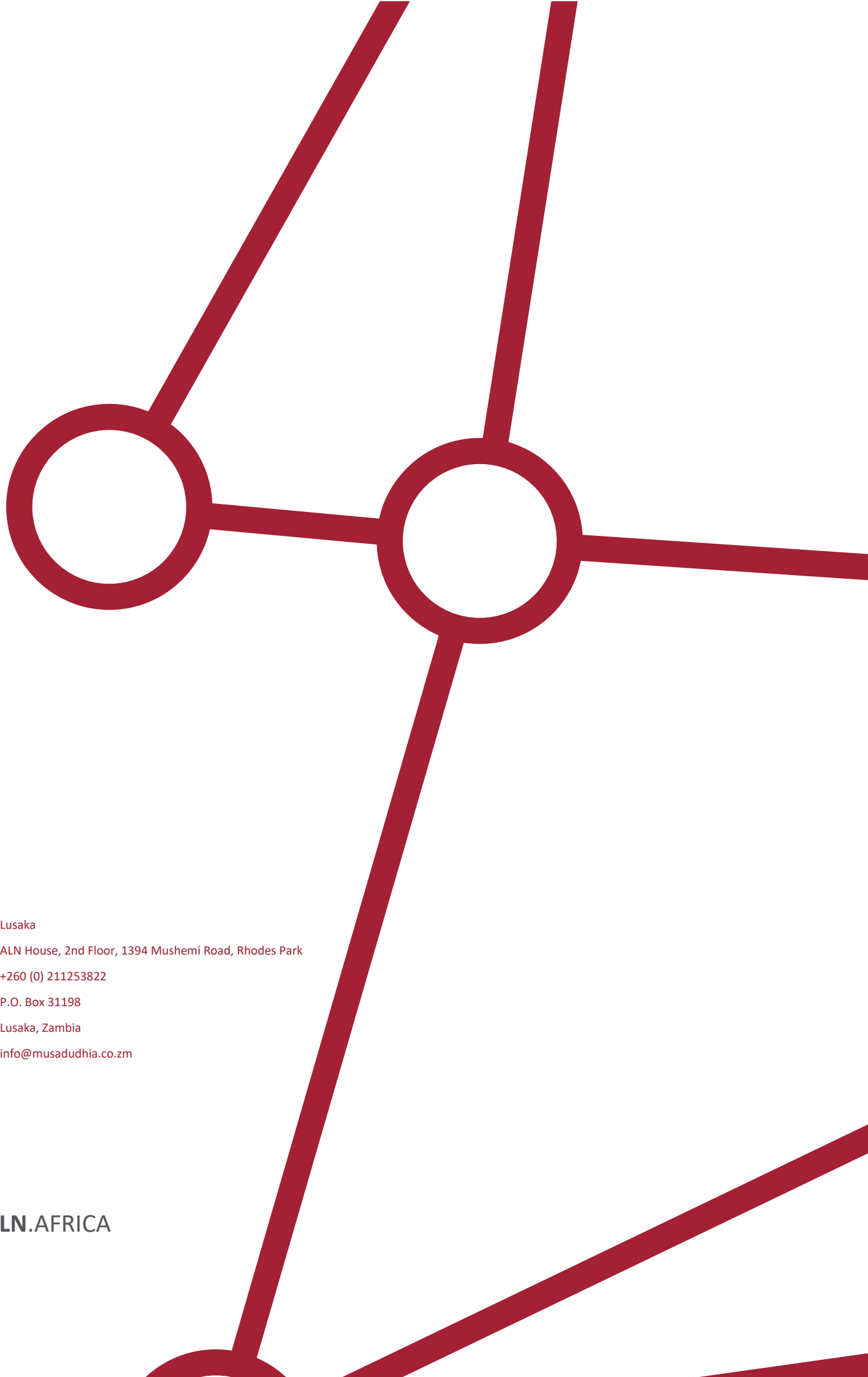
Vision

ALN seamlessly connects the African continent. It brings its global expertise, continental reach and deep local know-how to help its clients navigate the multitude of opportunities and risks in Africa, holistically combining legal, tax, regulatory and commercial advice.

Mission

ALN is dedicated to its clients' success. ALN achieves this by providing world class legal, tax and regulatory advice in a commercial context. ALN's lawyers are aware of the trends and events shaping the continent, deeply networked and respected in their communities as thought leaders and opinion shapers. ALN's lawyers have a Pan African mindset, are down to earth, pragmatic, responsive, innovative and relentlessly determined.





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