

# MARULENG LOCAL MUNICIPALITY



## SERVICE LEVEL AGREEMENT

MLM/SCM/82/2024

**APPOINTMENT OF AN INVESTOR OR INVESTOR OPERATOR TO DESIGN, BUILD, OPERATE AND TRANSFER A SOLAR PHOTOVOLTAIC FACILITY GENERATING A MAXIMUM 100MWP ELECTRICITY ON THE GRID AS DEFINED IN MARULENG LOCAL MUNICIPALITY**

made and entered into between

**MARULENG LOCAL MUNICIPALITY**

**“herein – after referred to as MLM”**

And

**SKY 77 (PTY) LTD**

**Registration Number: 2017/359795/07**

**“herein – after referred to as Independent Power Producer (IPP)”**

And

**KGORA AFRIKA FUND (PTY) LTD**

**Registration Number: 2018/377587/07**

**“herein – after referred to as Transaction Advisor (TA)”**

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## **PREAMBLE**

The MLM, IPP and TA have entered into a service level agreement for the provision of a comprehensive large scale development project related to the implementation of build, operate and transfer a solar photovoltaic facility generating a maximum 100MWp electricity with storage connected to the grid and power distribution as defined under Bid Number: **MLM/SCM/82/2024**.

**AND WHEREAS** the IPP shall review the existing Pre-Feasibility Study, present preliminary designs, conduct a detailed Feasibility Study, conduct a full-scale EIA, Conduct Technical Studies in partnership with Eskom and with the support of the TA. The IPP shall further register the project with NERSA as a generator. The process and completion of the required and/or relevant studies shall constitute Phase 1 of **MLM/SCM/82/2022**.

**AND WHEREAS** the IPP agrees to enter into this Project Preparatory Agreement, which is subject to the Service Level Agreement, General Conditions of Contract applicable to government bids, contracts and orders as per clause 9 of the bid document.

**THEREFORE**, the parties wish to record in writing the terms and conditions of their agreement relating to the aforementioned and matters incidental thereto.

## **1. DEFINITIONS**

- 1.1. **“Agreement”** means this Service Level Agreement, accepted bid document and any addendums including all annexures hereto;
- 1.2. **“Build–operate–transfer/BOT”** means the Project delivery method;
- 1.3. **“Business day”** means any day other than a Saturday, Sunday or South African public holiday.
- 1.4. **“Day”** means a calendar day.
- 1.5. **“Deliverables”** means any information collected, a document drawn, a programme devised.

- 1.6. **“Effective date”** means the signature date;
- 1.7. **“EIRR”** means economic internal rate of return;
- 1.8. **“FIRR”** and financial internal rate of return;
- 1.9. **“Institutional Analysis”** means the IPP prepared analysis which aims to ensure that (i) the BOT Project is institutionally sound and adequate capacity exists for a successful implementation; and (ii) the institutional arrangements facilitate effective and sustainable operations and maintenance of the project facilities.
- 1.10. **“Independent Power Producer”** means Sky 77 (Pty) Ltd, a company with limited liability incorporated in terms of the company laws of the Republic of South Africa with registration number: **2017/359795/07**, duly appointed as the investor operator to invest in the project as allocated by the MLM;
- 1.11. **“MLM”** means the Maruleng Local Municipality, a municipality that shares municipal executive and legislative authority in its area with a district municipality within whose area it falls as defined in the Municipal Structures Act, Act No. 117 of 1998 as amended;
- 1.12. **“MFMA”** means Municipal Finance Management Act, Act No. 56 of 2003 as amended;
- 1.13. **“Month”** means a month calculated from a particular day in one month to the day before the day numerically corresponding to it in the following month;
- 1.14. **“NPV”** means net present value;
- 1.15. **“Output Specifications”** means the IPP’s technical specification in relation to Phase I of the BOT Project focusing on the requirements for the planning phase (Phase I) of the Project;
- 1.16. **“Parties”** means all the Parties to this Agreement;

- 1.17. **“Party”** means one or more than one of the Parties to this Agreement as the context may indicate;
- 1.18. **“PFMA”** means Public Financial Management Act, Act No. 1 of 1999 as amended.
- 1.19. **“Phase I/Phase One”** means the planning phase of the BOT implementation of the Project within the MLM;
- 1.20. **“Public-Private Partnership/PPP”** means in terms of Regulation 16 of the PFMA a commercial transaction between an institution and a private party in terms of which the private party either performs an institutional function on behalf of the institution for a specified or indefinite period; or acquires the use of state property for its own commercial purposes for a specified or indefinite period; the private party receives a benefit for performing the function or by utilizing state property, either by way of (i) compensation from a revenue fund; (ii) charges or fees collected by the private party from users or customers of a service provided to them; or (iii) a combination of such compensation and such charges or fees;
- 1.21. **“Procurement”** means the procurement policies of the MLM;
- 1.22. **“Project”** means the project to be implemented in terms of this Agreement which includes the design, build, operate and transfer a solar photovoltaic facility generating a maximum 100MWp electricity with storage system connected to the grid and power distribution as defined under Bid Number: MLM/SCM/82/2024;
- 1.23. **“Regulations”** means the Municipal PPP Regulations in relation to the MFMA as amended from time to time;
- 1.24. **“Signature Date”** means the date of signature of this Agreement by the Party signing last;
- 1.25. **“Termination Date”** means the date of termination of this Agreement in accordance with its terms;

- 1.26. **“Transaction Advisor”** means Kgora Afrika Fund (Pty) Ltd, a company with limited liability incorporated in terms of the company laws of the Republic of South Africa with registration number: 2018/377587/07, duly appointed to perform transaction advisory services in this project as allocated by the MLM; and
- 1.27. **“Warranties”** means collectively any and/or all warranties (if any) given by the service provider in terms of this agreement.

## 2. INTERPRETATION

- 2.1. In this agreement clause headings are for convenience and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention:-
- 2.2. An expression which denotes;
- 2.2.1. Any gender includes the other genders;
- 2.2.2. a natural person includes an artificial or juristic person and vice versa;
- 2.2.3. the singular includes the plural and vice versa.
- 2.3. Any reference to any statute, regulation or other legislation or official policy shall be a reference to that statute, regulation or other legislation or national policy as at the signature date of this agreement, and as amended or re-enacted from time to time;
- 2.4. When any number of days is prescribed, such shall be reckoned exclusively of the first and inclusively of the last day, unless the last day falls on a Saturday, Sunday or Public Holiday, in which case the last day shall be the next succeeding day which is a business day;
- 2.5. Where any term is defined within a particular clause, other than the interpretation clause, that term shall bear the meaning ascribed to it in that clause wherever it is used in this agreement.

- 2.6. Clause headings have been inserted for reference purposes only and should not be utilised in the interpretation thereof;
- 2.7. If any provision in the definition is a substantive provision conferring to rights or imposing obligations on any party, notwithstanding that it is only in this interpretation clause, effect shall be given to it as if was a substantive *provisio* in the body of this Agreement.
- 2.8. Any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time.
- 2.9. Expiration or termination of this agreement shall not affect such of the provisions of this Agreement that expressly provide that they will continue to operate after such expiration or termination, or which of necessity must continue to have effect after such expiration or termination provide for this.
- 2.10. The *contra-preferentem* rule shall not be applicable in the interpretation of this agreement. The rule means that the document is interpreted in favour of the party not represented for the drafting of the agreement.
- 2.11. Where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail.
- 2.12. In the event of any inconsistency or conflict between this Agreement and the terms and conditions of any other documentation or annexure forming part of this Agreement, then the terms and conditions of this Agreement will prevail.
- 2.13. The various documents forming part of this Agreement are to be taken as mutually explanatory except where they are inconsistent or specifically excluded.

### **3. INTRODUCTION**

- 3.1. MLM resolved to promote overall economic development by identifying and implementing economic development projects and investments intended to expand and diversify the economic base of the MLM.

- 3.2. The TA and IPP are tasked with the responsibility to develop a concept, review and/or conduct pre-feasibility study, conduct a feasibility study, conduct technical assessment in partnership with Eskom and viability studies as well as set up a relevant institutional structure. These will guide the implementation and operation of projects to business in line with MFMA. This project preparatory phase will provide a clear guide in terms of scope, work-breakdown and detailed plans of Phase 1. The IPP will further implement and operate the project for the entire period as outlined.

#### **4. APPOINTMENT OF IPP**

- 4.1. MLM has appointed the IPP, which has accepted such appointment, to fund and deliver the services subject to the terms and conditions of this agreement, the overall MLM/SCM/82/2024 conditions and terms of reference;
- 4.2. The appointment of the IPP in terms of Clause 4.1 above may not be ceded or assigned to any third party, other than that of the investment SPV under the SPV agreement.
- 4.3. The MLM shall not be required to provide financial guarantees to the IPP.
- 4.4. All rights and obligations arising from this agreement shall be deemed to have come into operation on the effective date.
- 4.5. The appointment of the IPP in terms of this agreement shall not give rise to or be construed as giving rise to an employer/employee relationship between the Parties, neither shall it give rise to a joint venture, partnership agreement, nor shall it give rise to a labour broking agreement between the Parties.
- 4.6. The Parties acknowledge that neither of them has any authority whatsoever to represent or to bind the other in any capacity whatsoever.
- 4.7. The Parties hereby accept their appointment subject to the terms and conditions as set out hereunder.

- 4.8. The Parties hereby note that the MLM has all the governance and management structures in place and are credit worthy.

## **5. DURATION**

- 5.1. This Agreement shall commence on the effective date notwithstanding the date of signature of the Party signing it last and shall automatically expire once the SPV has been registered and it is in use.
- 5.2. The duration shall be allocated with the initial 8 (eight) months of planning (Phase I), followed by 36 (thirty-six) months of construction phase (Phase II) and last 27 (twenty-seven) years of operation.
- 5.3. The duration shall be signed in line with MFMA and any Regulations of the National Treasury as maybe required.
- 5.4. The Parties agree that should this Agreement be extended for any reason whatsoever (the renewal period), such extension shall be made by notice in writing and shall continue to be of force and effect under the same terms and conditions as stipulated in this agreement, unless the parties agree otherwise in writing.
- 5.5. The Parties hereby agree that the extension period shall not exceed two (2) years.

## **6. PROCUREMENT**

- 6.1. The SPV shall comply with the budget provisions as prescribed by the TA, IPP and MLM.
- 6.2. The project approach is to build, operate and transfer over the period of 30 years (planning, construction and operations combined)
- 6.3. The minimum investment value for the Project is estimated at R 2 600 000 000.00 (Two billion, Six hundred million, rand) inclusive of taxes and Transaction Advisory fees. TA fees are directly payable through the SPV unless done for convenience.

- 6.4. The TA has a mandate to facilitate procurement and localise the project as well as assist and support the IPP with all necessary compliance.
- 6.5. The MLM hereby agrees to comply with the Municipal Financial Management Act, as amended or replaced.
- 6.6. The TA hereby agrees to comply with all Treasury Regulations concurrently with the National Treasury Practice Note SCM 3 of 2005 pursuant to MFMA as amended or replaced for its services rendered under this Agreement.
- 6.7. Despite anything to the contrary contained in any other law, the allocated funds may only be utilised for purposes for which they are allocated.
- 6.8. Pursuant to this Agreement, the SPV shall enter into a Land Availability Agreement (“LAA”) under the following terms:
  - 6.8.1. The MLM shall facilitate the acquisition or lease of land within its boundaries for the SPV, whereby the SPV shall in respect of the land, implement the Project on a BOT model under the terms of this Agreement; and
  - 6.8.2. The Parties hereby agree to proceed with the Project on site that shall be allocated by the MLM.
- 6.9. The IPP may withhold payment of the allocated funds or any portion thereof if:
  - (a) The MLM, SPV and the TA do not comply with conditions regarding the allocation of funds as provided for in this Agreement; or
  - (b) Expenditure on previous payments reflects significant irregular spending for which no satisfactory explanation is given.
- 6.10. The IPP shall, before withholding payment as per Clause 6.9 above, give the MLM and the TA:
  - (a) Written notice of the intention to withhold the payment; and

(b) An opportunity for the MLM and the TA to submit written representations within 7 (seven) days as to why the payment should not be withheld.

6.11. The IPP hereby undertakes to adhere that the implementation of the Project will be in accordance with the specifications as provided by the MLM, this Agreement (including all annexures), and any other agreement subject to the Project.

## **7. DUTIES OF THE IPP, MARULENG LOCAL MUNICIPALITY AND TRANSACTION ADVISOR**

### **6.1 Duties of the MLM**

The responsibilities of MLM in terms of this Agreement shall include *inter alia* the following:

6.1.1 reserving itself the right to inspect the project work done by the SPV company;

6.1.2 ensuring that all parties comply with the agreement and monitor the Project; and

6.1.3 Notwithstanding anything contained in this Agreement, the MLM reserves the discretion to verify and confirm any information and/or document submitted by the other Parties in respect of the performance and execution of the large-scale projects, duties and obligations in this Agreement.

6.1.4 The MLM shall verify work done by the SPV.

6.1.5 The MLM undertakes to render all reasonable assistance to the TA, the SPV to enable them to achieve the deliverables.

### **6.2 Duties of IPP**

The IPP in terms of this Agreement, agrees *inter alia* on the following;

- 6.2.1 The IPP shall invest at least an amount of R 2 600 000 000.00 for it to design, build, operate and transfer a solar photovoltaic facility generating a maximum 100MWp electricity with storage system connected to the grid and implement power distribution.
- 6.2.2 The IPP shall remunerate the TA for Services rendered as set out in the Payment Schedule of the Special Purpose Vehicle.
- 6.2.3 The IPP undertakes to pay over funds in accordance with the Phases provided in Annexure 1 in order to achieve the objectives, subject to the provisions of this agreement and the satisfactory achievement of all deliverables.
- 6.2.4 The SPV undertakes the implementation of the Project with due skill, diligence, regularity, expedition and completeness, and shall exercise all reasonable skill, care and diligence in the execution in respect of the implementation of the BOT of the Project.
- 6.2.5 The IPP shall at all material times comply with the relevant provisions of this Agreement, insofar as it pertains to the activities of the implementation of the Project.
- 6.2.6 The Parties agree that the SPV shall ensure that the Project is implemented according to the Project Management Plan provided in "Annexures 1, 2 and 3".
- 6.2.7 The IPP shall provide funds as per clause 6.2.1 for the implementation of the Project.
- 6.2.8 The IPP hereby undertakes that any information or document submitted by it in terms of this Agreement shall be true and correct.
- 6.2.9 The IPP similarly undertakes to act in good faith and afford all reasonable and necessary co-operations in fulfilling its obligations in terms of this Agreement.
- 6.2.10 The SPV shall execute and finalize its obligations within the prescribed time period.
- 6.2.11 The SPV shall ensure that sound financial management and accountability system is in place and provide the TA and the MLM with weekly, monthly and annual reports.

- 6.2.12 The SPV shall conduct Project feasibility, planning, design, business plan, construction management schedules, certification, and procurement of deliverables according to the scope of work of the Project as agreed upon in Annexure 5.
- 6.2.13 The SPV shall train beneficiaries according to need analysis and marketing of the Project. The training and the marketing plans should be submitted to MLM Accounting Officer for approval of the implementation.
- 6.2.14 The SPV shall provide beneficiaries with aftercare or mentorship in conjunction with extension support from MLM in accordance with the scope of work provided in “Annexure 1”.
- 6.2.15 The IPP hereby warrants that the training mentoring and support will be assessed beforehand in conjunction with the MLM.
- 6.2.16 Should the SPV be unsuccessful, in the eventuality that the SPV cannot outsource to Local Entities, the IPP shall as an alternative, outsource to Provincial Entities within the Province of Limpopo.
- 6.3 The following shall further be operational duties or obligations of the IPP:
- 6.3.1 The IPP shall ensure that SPV shall provide warranties according to the manufacturer’s prescripts or as outlined by the scope of the Project;
- 6.3.2 Before the implementation of the Project by the SPV, the IPP will submit a detailed project plan (budget breakdown) to the TA and the MLM Accounting Officer for approval;
- 6.3.3 The SPV office to be used at all times as a logistical centre point shall be anywhere within the municipal boundaries of MLM;
- 6.3.4 Payments by the IPP will be done according to milestones and payment certificates as per contracts of the different phases of the project; and

6.3.5 In order for the SPV to claim VAT, all invoices should be issued out in the name of the SPV where applicable inclusive of the VAT number.

#### **6.4 Duties of the Transaction Advisor**

6.4.1 The TA shall be responsible to ensure that the project complies with environmental requirements, Municipal by-laws, applicable legislations or Acts and standards.

6.4.2 The TA shall ensure that the SPV obtains all rights (including water rights) and any right necessary for performing and completing the entirety of the Project.

6.4.3 The TA shall ensure that signed monthly progress reports are to be provided to the MLM on or before the 7<sup>th</sup> of the following month.

6.4.4 The TA fee is 5% (Five percent) of the overall project budget allocated by the SPV and shall be paid directly from the SPV account. Some of the fees may be converted into share capital.

6.4.5 The fees pursuant to this agreement comprise project management support costs, planning costs, administrative fees, coordination and oversight costs.

6.4.6 The TA shall in accordance with the terms set out in this Agreement, in all professional matters render its Services as a faithful advisor to the MLM and, in so far as any of its duties are discretionary, act fairly between the MLM, the SPV and any third parties during the BOT implementation of the Project.

6.5 Subject to this clause 6 aforementioned duties required by Parties to this Agreement, the MLM, TA and the IPP agree to conclude a Project Preparatory Agreement (“PPA”), annexed herein as “Annexure 1”, therein setting terms and conditions which outline the terms of scope of work, work-breakdown and detailed plans of Phase 1 on the basis of the delivery of the Project on a BOT model as set in this Agreement and the PPA (Annexure 1).

## **8. FEES AND DISBURSEMENTS**

- 8.1. It is reiterated and agreed that the minimum investment value for the duration of 30 (thirty) years this Agreement amounts to a total cost of R2 600 000 000.00 (Two billion, Six hundred million rand)
- 8.2. The TA on behalf of the MLM will submit written invoices in all financial years on its letterhead and provide quarterly reports in order for payments to be processed timeously.
- 8.3. All tax invoices of the SPV shall contain the SPV's VAT number, bank account details belonging to SPV and the address of the SPV.
- 8.4. Payment in relation to the TA's Services rendered and the BOT implementation of the Project by the SPV shall be made within 30 (thirty) days upon receipt of an original tax invoice(s) furnished by the TA, in accordance with the delivery and approval of services rendered in line with the provisions of Annexure 1).
- 8.5. All monies due to the SPV and/or the TA shall be paid into the SPV's bank account, which bank account details shall be confirmed by the relevant bank and submitted to the investor, on the bank's letterhead or with a bank's stamp.
- 8.6. Any Service Provider shall endeavour to register for VAT with South African Revenue Service ("SARS"), if not registered on the Commencement Date, within 6 (six) months from the Signature Date.

## **9. BREACH**

- 9.1. If a Party to this Agreement (the breaching Party) breaches any obligation in terms of this Agreement and after receiving a written notice from the other Party to this Agreement ("the aggrieved Party") requiring such breach to be rectified within the period stated in such notice (which period shall be reasonable, having regard to the nature of the obligation to be performed and having regard further to the time reasonable required for such performance and which period shall in any event not be less than thirty (30) days, and the breaching party fails to remedy such breach within the relevant period, the aggrieved Party shall without prejudice to any of its rights in

law or in terms of this Agreement, be entitled to cancel this Agreement by way of three (3) business days written notice to the other Party. The aggrieved Party shall then be entitled to recover damages suffered as a result of the breach from the other Party.

## **10. DISPUTES ARISING FROM THIS AGREEMENT**

10.1. Should any differences or dispute at any time arise, which Parties are unable to resolve amicably, whether in regard to the meaning or effect of any term of this Agreement, or the implementation of any Party's obligations under this agreement, or any other matter arising from or incidental to it, then in that event, such differences or dispute shall be referred to the court of law which parties agree to the jurisdiction of the High Court of South Africa: Limpopo Division.

## **11. TERMINATION OF THIS AGREEMENT**

11.1. Either Party may cancel this agreement by way of a 30 (thirty) business day notice to the other Party.

## **12. CESSION AND DELEGATION**

12.1. The IPP must cede all or any of its rights in or to and/or delegate all or any of its obligations under this Agreement to the SPV pursuant to the SPV Agreement.

12.2. Save as provided in 12.1., no party may cede its rights or interest in or to, or delegate its obligations under this Agreement to any third party without the prior written consent of the other parties to this Agreement, which consent shall not be unreasonably withheld or delayed.

## **13. FORCE MAJEURE**

13.1. If any Party should be prevented or restricted, directly or indirectly, from performing all or any of the obligations under this Agreement by reason of strike, labour dispute, lockout, fire explosion, flood, riot, war, accident, Act of God, embargo, legislation, regulations or directive having the force of law, civil commotion, unrest or disturbance,

compliance with any order or instruction, or any authority, or without limitations, any other cause beyond its control, anywhere in the world, all or any of which shall constitute force majeure for the purpose hereof, the Party which is so effected (the effected party) shall be relieved of the performance of its obligations hereunder during the period that such event and its obligation during the period that such event and its consequences shall continue, but only to the extent so prevented, and shall not be liable for any delay or failure in the performance of any of its obligations hereunder, or loss or damage whether general, special, or consequential, which the other party (the unaffected party) may suffer due to or resulting from such delay or failure, provided always that written notice shall be given by the affected party at the earliest possible opportunity by email, telephone or telex of the occurrence of the event constituting the force majeure, together with details thereof and estimate the period of the time for which ensure.

- 13.2. The effected party shall use reasonable endeavours to terminate the circumstance giving rise to the force majeure and upon termination of the force majeure will forthwith give notice thereof by telefax, or telephone to the unaffected party.
- 13.3. This Agreement will not, unless otherwise agreed in writing, be terminated by the intervention of force majeure, provided that if such force majeure continues for a period in excess of 90 (ninety) days, either party may cancel the agreement by issuing a 10 (ten) business day written notice to the other party in which event the terms of clause 13.2 shall apply *mutatis mutandis*.

#### **14. VARIATION, CANCELLATION AND WAIVER**

- 14.1. No agreement purporting to vary, add to, delete or cancel this Agreement and no waiver of any rights in terms of this Agreement shall be effective unless reduced to writing and signed on behalf of the Parties.
- 14.2. No addition to, variation or agreed cancellation of this agreement shall be binding upon the parties unless reduced to writing and signed by or on behalf of the parties.

## 15. DOMICILIUM CITANDI ET EXECUTANDI

The Parties choose their *domicilium citandi et executandi* for all purposes arising out in connection of this Agreement and the following addresses;

### 15.1. MARULENG LOCAL MUNICIPALITY

65 Springbok Street

Hoedspruit

1380

E-mail: [sedibananki@gmail.com](mailto:sedibananki@gmail.com)

### 15.2. Skyy 77 (PTY) LTD

9 Kelkiewyn Street

Kathu

Northern Cape

8446

E-mail: [carmen.leibrandt@sky77.co.za](mailto:carmen.leibrandt@sky77.co.za)

### 15.3. KGORA AFRIKA FUND (PTY) LTD

Maxwell Office Park

Waterfall City

Midrand

2090

E-mail: [derrickmagri@gmail.com](mailto:derrickmagri@gmail.com)

15.4. Each party shall be entitled from time to time, by giving written notice to the others, to vary its physical domicile to any other physical address (not being a post office box or Poste Restante) within the Republic or to vary its postal domicile or its facsimile domicile to any other within the Republic.

15.5. Any notice given by any party to any other which is sent by facsimile to the addressee's facsimile domicile for the time being shall be deemed to have been received by the addressee on the day immediately succeeding the date of successful transmission thereof.

- 15.6. This domicile clause shall not operate so as to invalidate the giving or receipt of any notice, which is actually received by the addressee other than by a method referred to in this clause.
- 15.7. Any notice required or permitted to be given in terms of this agreement shall be valid and effective only if in writing.

## **16. OFFICIAL CONTACT PERSONS**

- 16.1. MLM has appointed Mr Lesly Muroa, the Acting Municipal Manager, his duly authorised representative as the official contact person between the parties for reporting, assistance, and control process *inter alia*.
- 16.2. The IPP has appointed Mr Koketso Ketshabile, the Chief Executive Officer of Sky 77 (Pty) Ltd or his duly authorised representatives as the official contact person between the parties for reporting, assistance, and control process *inter alia*.
- 16.3. The TA has appointed Mr Bolokang Derrick Montshwe the Managing Director of Kgora Afrika Fund (Pty) Ltd or his duly authorised representatives as the official contact person between the parties for reporting, assistance, and control process *inter alia*.

## **17. GOVERNING LAWS AND JURISDICTION**

- 17.1. This Agreement shall be governed by and interpreted in accordance with the Laws of the Republic of South Africa and the courts of the Republic of South Africa shall have exclusive jurisdiction in relation to any claim, dispute, or difference concerning this Agreement or any matter arising from it.

## **18. TOTALITY OF THIS AGREEMENT**

- 18.1. This Agreement constitutes the entire agreement between the Parties with regard to the matters dealt with in this Agreement and or presentations, terms, conditions warranties or material evidence (express or implied) not contained therein shall be binding to the Parties.

**19. ACCOUNTING SYSTEMS**

- 19.1. IPP shall ensure that the SPV shall install and operate suitable professional accounting system to enable the SPV to comply with disclosure requirements including good business management and control.
  
- 19.2. Management of the SPV must satisfy the MLM that transparent, effective economical and reliable financial control systems are in place, and further that sufficient original documentation (source documents for all transactions) is kept backing up all payments.
  
- 19.3. Over and above the signed monthly progress report and invoice all Parties undertake to provide financial records concerning the payment of their staff at any time, should it be deemed necessary.

**20. TAXATION**

- 20.1. The SPV shall promptly comply with its tax obligations to the Republic of South Africa.

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2026.

\_\_\_\_\_  
**A. Mr Lesly Muroa**  
Acting Municipal Manager of MLM

AS WITNESSES

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2026.

\_\_\_\_\_

**B. Mr Koketso Ketshabile**  
CEO of Sky 77 (Pty) Ltd

**AS WITNESSES**

1. \_\_\_\_\_ 2. \_\_\_\_\_

SIGNED AT \_\_\_\_\_ ON THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2026.

\_\_\_\_\_

**C. Mr Bolokang Derrick Montshwe**  
Managing Director of Kgora Afrika Fund (Pty) Ltd

**AS WITNESSES**

1. \_\_\_\_\_ 2. \_\_\_\_\_