

SERVICE LEVEL AGREEMENT

entered by and between

THE GEORGE MUNICIPALITY

herein represented by Mr Riaan du Plessis in his capacity as **Director: Financial Services**, being duly authorised thereto

(hereinafter referred to as "**the Municipality**")

and

LMK DIGITAL HOLDINGS PTY LTD

herein represented byTafadzwa Kawadza....., being duly authorised thereto

(hereinafter referred to as "**the Service Provider**")

hereinafter collectively referred to as "the parties"



PREAMBLE:

- A.** The Municipality has appointed the Service Provider, for a period of three (3) years, to perform website maintenance, support and the supply of licensing, subscriptions and certificates under tender MM006/2022.

- B.** The Service Provider has accepted such appointment and shall render the Services to the Municipality on the terms and conditions as set out in this Agreement, the tender specifications, the special conditions, applicable to this tender, the stipulations in the Bid document and the appointment letter dated 23 August 2022, which all form part of this agreement.

WHEREBY THE PARTIES AGREE AS FOLLOWS:

1. INTERPRETATION

- 1.1. The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have a corresponding meaning, namely:
 - 1.1.1. **“Agreement”** shall mean this Service Level Agreement, together with the bid documents, and any other annexures hereto, and **“this Agreement”** shall have a corresponding meaning;

 - 1.1.2. **“Municipality”** means the George Municipality;

 - 1.1.3. **“Parties”** means the Service Provider and the Municipality; and

 - 1.1.4. **“Appointment Date”** means the date on which the final Award Letter was sent to the Service Provider (23 August 2022).



2. DURATION

The Services shall be rendered as follows:

A period of three years, starting from Appointment Date.

3. THE SERVICES

This Service Level Agreement specifically describes the web support services provided by LMK Digital Holdings.

3.1 Scope

This Service Level Agreement applies to the LMK Digital Holdings supported and hosted websites.

Web Support is provided by the most efficient method available. Currently, opening a ticket via email is the recommended approach but assistance may also be obtained via support ticket escalation for high severity issues, telephone and in-person via your Account Manager or LMK Digital Holdings Executive Staff by means of a scheduled appointment.

3.2 Services

Website support and hosting services include:

3.2.1 Website support (3 hours per month). Any additional time necessary for a task will be invoiced at R350 per hour.

- Website support, such as bug fixes and access changes
- Creation and maintenance of Standard Content types and the Standard Theme
- Granting and removing content contributors.
- Decommissioning and exporting website content.
- Training for content contributors

3.2.2 Web hosting services

- george.gov.za Website uptime monitoring
- Maintaining the security of the website: george.gov.za
- Regular backups of website (daily backups for: george.gov.za)

3.2.3 Deployment and Upkeep

- Assistance with the posting the pages/site to the appropriate web server(s)
- Assistance with the posting new content

3.2.4 CMS/Site Migration

- Moving existing site to LMK Digital Holdings servers
- Providing training in maintaining site content

4. ROLES, RESPONSIBILITIES AND LEVELS OF SERVICE PROVIDED

4.1 Responsibilities of George Municipality

- Using the standard contact methods (see below) to request web support services
- Reviewing draft design concepts, web pages suggestions, ticket replies, and all other communication dependencies in a timely fashion.
- Regularly reviewing page content for which they are responsible and communicating any required updates or new content to LMK Digital Holdings Support in a timely fashion.

4.2 Service Provider Responsibilities

LMK Digital Holdings will provide the infrastructure, technology, personnel, processes, and monitoring tools necessary to deliver web support and secure hosting as described in this document.

4.3 Support Services offered by the Supplier

4.3.1 Support Ticket via Email

Sending an email to LMK Digital Holdings info@lmkdigital.africa is the recommended method for requesting web support assistance. The request will be delivered to all members of the LMK Digital Holdings Support team, ensuring that it is reviewed promptly. Unless designated urgent, requests made via email will be processed in the order in which they are received during normal hours of operation.

4.3.2 Telephone

For Enterprise Clientele Only - Urgent support requests may be made by telephone to special support number provided by your account manager. Messages left during off hours will be processed the next business day.

4.4 Response Times and Complaint Resolution

4.4.1 Hours of coverage

Web content support will be provided by the LMK Digital Holdings Support team Monday through Friday, 8 am to 5 pm on regular business days.

4.4.2 Response times

LMK Digital Holdings Support will use the guidelines as set out in **Annexure A** to this agreement to prioritize web support requests, with the goal of beginning to work on the problem within the target timeframe. Actual response times may be shorter or longer, depending on the volume of requests.

4.4.3 Escalation

If the client is not satisfied with the level of service related to a web support request, they should contact their account manager or the LMK Digital Holdings Executive Team, who will review your input and respond to you with the action taken.

4.4.4 Other Requests

Requests not covered in the scope of this service can be submitted through email info@lmkdigital.africa and will be referred on to the appropriate individual(s).

5. PAYMENT

- 5.1 George Municipality shall pay the Service Provider in accordance with the amount payable of the tender document, within thirty (30) days of receipt of a detailed tax invoice, provided that the Services to which the tax invoice relates, have been checked by the Municipality.
- 5.2 The following details must be reflected on the invoice forwarded to the Municipality by the Service Provider:
- 5.2.1 The total amount payable regarding the activities and outputs referred to in Clause 3 in of this Agreement, as well as details of time spent on such activities; and
- 5.2.2 VAT payable.
- 5.3 The Municipality will verify the correctness of services rendered, and notify the Service Provider of any possible discrepancies within ten (10) days of sending the invoice. If the invoice is correct the amount due shall be payable within thirty (30) days from sending the invoice.
- 5.4 If the Municipality identifies any material discrepancies the invoice will be referred back to the Service Provider, and the amount due will be payable within thirty (30) days from sending of a correct invoice, provided that the Services to which the relevant invoice relates has been achieved to the satisfaction of the Municipality.

6. WEBSITE DATA, STATS, REPORTING & STORAGE

- 6.1 All website data, themes and plugins will be managed by LMK Digital Holdings but owned by the client (George Municipality).
- 6.2 Monthly Website analytics reports will be sent to the client on the 3rd of each new month.
- 6.3 Monthly status meetings will be held on the 1st Friday of each month.
- 6.4 The website and subdomain for George Municipality will have 50 GB of storage space. Anything above will incur an extra R20.00 per gigabyte fee

7. INDEPENDENT CONTRACTOR

- 7.1 The Service Provider is appointed as an independent contractor, and not as an employee, and at all relevant times during the currency of this Agreement no employer/employee relationship shall exist between the Parties.
- 7.2 This Agreement replaces any other previous verbal or written agreement entered between the Parties.

8. VALIDITY PERIOD AND TERMINATION

- 8.1 This agreement remains valid for the duration of the contract period
- 8.2 The term or renewal term can be terminated as per a 30-day cooling off period after the commencement or renewal date of the agreement. Notice of this termination must be made in writing.



8.3 If the customer terminates the agreement prematurely to its term, then any unpaid Maintenance Service Fees will be invoiced.

8.4 If the agreement is ended by any party, LMK Digital Holdings is responsible for providing the client with all data, files, and databases associated with the website.

9. ENTIRE AGREEMENT

9.1 This Agreement constitutes the entire agreement between the Parties and no amendment, alteration, addition or variation of any right, term or condition of this Agreement will be of any force or effect unless reduced to writing and signed by the Parties to this Agreement.

9.2 The Parties agree that there are no conditions, variations or representations, whether oral or written and whether expressed or implied or otherwise, other than those contained in this Agreement.

10. WAIVER

10.1 No waiver of any of the terms and conditions of this Agreement shall be binding unless expressed in writing and signed by the Party giving the same, and any such waiver shall be affected only in the specific instance and for the purpose given.

10.2 No failure or delay on the part of either Party in exercising any right, power or privilege precludes any other or further exercising thereof or the exercising of any other right, power or privilege.

10.3 No indulgence, leniency or extension of time which any Party (*"the Grantor"*) may grant or show the other Party, shall in any way prejudice the Grantor

or preclude the Grantor from exercising any of its rights in terms of this Agreement.

11. CONFIDENTIAL INFORMATION

11.1 The Service Provider shall not, during the currency of this Agreement, or at any time thereafter, utilize or cause to be utilised, and/or directly or indirectly publish or cause to be published or otherwise disclose or cause to be disclosed to any third party, any of the Confidential Information of the Municipality, government in any other sphere, or any government institution or organ of state.

11.2 For purposes of this clause "Confidential Information" shall mean -

11.2.1 any information disclosed, revealed or exchanged and which pertains to, but is not limited to, all intellectual property rights, all trade secrets, all agreements (whether in writing or not) which exists at the time of revealing the content thereof to the Service Provider, the content of all possible future agreements which may be entered into with any other party, all knowledge obtained by way of research and development, irrespective of whether the aforementioned information that is revealed is applicable to technical, operational or financial aspects of the Municipality, government in any other sphere, or any government institution or organ of state;

11.2.2 any information of whatever nature, which has been or may be obtained by the Service Provider, whether in writing or in electronic form or pursuant to discussions between the parties, or which can be obtained by examination, testing, visual inspection or analysis, including, without limitation, scientific, business or financial data or information, know-how, formulae, processes, designs, sketches, photographs, plans,



drawings, specifications, sample reports, models, studies, findings, computer software, inventions or ideas;

11.2.3 analyses, concepts, compilations, studies and other material prepared by or in possession or control of the Service Provider which contain or otherwise reflect or are generated from any such information as is specified in this definition;

11.2.4 all information which a third party has in terms of any agreement made available to the Municipality and which has become known to the Service Provider in the course of rendering the Services; and

11.2.5 any dispute between the Parties resulting from this Agreement;

11.3 The Service Provider shall -

11.3.1 use the Confidential Information only for rendering the Services;

11.3.2 treat and safeguard the Confidential Information as private and confidential; and

11.3.3 ensure proper and secure storage of all Confidential Information.

11.4 Any documents or records (including written instructions, notes or memoranda) relating to the Services which are to be provided to the Service Provider or which come into the Service Provider's possession during the currency of this Agreement, are deemed to be the property of the Municipality and shall be surrendered to the Municipality on demand, and in the event of the expiry or termination of this Agreement, the Service Provider will not retain any copies thereof or extracts there from without obtaining the prior written permission of the Municipality.

11.5 The Service Provider –



- 11.5.1 acknowledges that he/she has carefully considered the provisions of the clause;
- 11.5.2 agrees that this clause is, after taking all relevant circumstances into account, reasonable and necessary for the proper protection of the interests of the Municipality and the Government of the Republic of South Africa and that if he/she should at any time dispute the reasonableness of this clause, then the onus of proving such unreasonableness shall be on the Service Provider; and
- 11.5.3 acknowledges that he/she has entered into this Agreement freely and voluntarily and that no circumstances exist and/or existed for him/her alleging, either now or at any future time, that he was at a disadvantage in agreeing to the restraints set out in this clause, or was not in an equal bargaining position with the Municipality in agreeing thereto.

12. BREACH

- 12.1 The Municipality may through its employees ensure that all specifications as stipulated are adhered to. Within one (1) day of the receipt of notice in writing from the Municipality calling upon it to do so, the Service Provider shall provide reason for failing to adhere to the specifications as stipulated herein.
- 12.2 Failing which the Municipality shall be entitled to cancel and annul this contract without prejudice to the right of recovery from the Service Provider such amount in respect of loss or damage which the Municipality may have sustained or expenses, which may be entailed upon the Municipality by reason of the failure of the Service Provider to observe and fulfil the conditions or performs or has performed unsatisfactorily under this contract.

13. NOTICE AND DOMICILIUM

13.1 The Parties choose as their respective *domicilium citandi et executandi* for the purposes of legal proceedings and for the purpose of giving or sending any notice provided for or necessary in term of this Agreement, the following addresses:

THE MUNICIPALITY:

THE GEORGE MUNICIPALITY

Municipal Manager

George Municipality

71 York Street, third floor, Civic Centre

George

6530

THE SERVICE PROVIDER:

LMK DIGITAL HOLDINGS (PTY) LTD

13 Callington Crescent

Parklands

Cape Town

Western Cape

7441

13.2 All notices to be given in terms of this Agreement shall be given in writing and be delivered or sent by prepaid registered post to the Party's chosen *domicilium citandi et executandi*.

13.3 If delivered by hand, a notice shall be presumed to have been received on the date of delivery, or, if sent by prepaid registered post, be presumed to have been received 7 (seven) business days after the date of posting.

13.4 Notwithstanding anything to the contrary contained in this Agreement, a written notice or communication actually received by one of the Parties from the other Party shall be adequate written notice of communication.



14. DISPUTE RESOLUTION

- 14.1 If any dispute arises between the parties in connection with or arising out of this Agreement the parties shall make every effort to resolve amicably, such dispute or difference by mutual consultation.
- 14.2 Should a dispute which pertains to this MOA arise between the parties to this Agreement then the parties can agree to refer the dispute in question to arbitration.
- 14.3 Referral to arbitration must be by way of written notice delivered to the *domicilium cjtandi et executandi* of the other party/ies involved in the dispute.
- 14.4 In the event of arbitration, the parties shall use their best endeavours to ensure that the arbitration is held and concluded, and a decision handed down within 30 (thirty) working days after the delivery of the referral to arbitration.
- 14.5 The arbitrator shall be a person agreed between the parties to the dispute alternatively and party to the dispute may request the Chairperson for the time being of the Legal Practice Council (Western Cape Provincial Office) to appoint an arbitrator, which he is authorized to do in his sole discretion, save that the appointed arbitrator must be independent.
- 14.6 The arbitrator shall have the fullest and freest discretion regarding the procedure applicable to the proceedings; whether he shall require assessors to assist in his decision making; as well as the venue and timing thereof, subject to the other terms of this clause 12.
- 14.7 The arbitrator's decision shall be final and binding.



- 14.8 The arbitrator may make an award as to his/her costs.
- 14.9 The provisions of the Arbitrations Act, Act 42 of 1965, shall apply to this arbitration.
- 14.10 A party to this Agreement may institute court proceedings if:
- 14.10.1 same is necessary for the protection of any rights pending the resolution of an arbitration in terms hereof; or
 - 14.10.2 same is necessary to obtain relief where grounds justifying urgent relief exist.
 - 14.10.3 same is necessary to compel a party to abide by the terms of this arbitration clause.

15. ASSIGNMENT, CESSION AND DELEGATION

- 15.1 The Service Provider shall not assign, cede or transfer any of its rights, interests and obligations (in whole or in part) under this contract.

16. INJURY OR DAMAGE TO PERSON OR PROPERTY

- 16.1 The Service Provider shall indemnify and keep indemnified the Municipality against all losses and against all claims for injury or damage to any person or property whatsoever which may arise out of or in consequence of the Service Provider or Service Provider employees providing the services and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever, in respect thereof or in relation thereto.

17. FORCE MAJEURE

17.1 If *force majeure* causes delays in or failure or partial failure of performance by a party of all or any of its obligations hereunder, this agreement, shall be suspended for the period during which the *force majeure* prevails. Written notice of the *force majeure* specifying the nature and date of commencement thereof shall be dispatched by the party seeking to rely thereon to the other party as soon reasonably possible after the commencement thereof. Written notice of the cessation of the force majeure shall be given by the party who relied thereon within seven (7) days of such cessation. No party shall subsequently be obliged to comply with obligations suspended during such period. For purpose hereof, force majeure includes any laws or regulations having the force of law, civil strife, riots, insurrection, sabotage, acts of war or public enemy, illegal strikes, interruption of transport and interruption in product supply, caused by the supplier, flood, storm, fire (or without limitation *eiusdem generis*) any other circumstances beyond the reasonable control of the party claiming *force majeure*.

18. IMPLEMENTATION AND GOOD FAITH

18.1 The parties undertake to do all such things, perform all such acts and take all steps to procure the doing of all such things and the performance of all such acts, as may be necessary or incidental to give conducive to the giving of effect to the terms, conditions and import of this Agreement.



19. SIGNATURE

This agreement is signed by the parties on the date and at the places recorded herein.

Signed atParklands..... on this26..... day ofJanuary..... 2023

AS WITNESSES:

1 Tafadzwa Kawadza
Signature

Tafadzwa Kawadza
Full Name and Surname

Director
Designation of signatory on behalf
of the service provider:
.....

2 Katlego R
Signature

Katlego Ratshidi
Full Name and Surname

Signed atParklands..... on this26..... day ofJanuary..... 2023

AS WITNESSES:

1 G. J. GALZATH
Signature

G. J. GALZATH
Full name and Surname

Mr. Riaan du Plessis
Mr. Riaan du Plessis, in his capacity as
Director: Financial Services of
George Municipality

2. SP Jansen v Vuuren
Signature

Stephan Jansen van Vuuren
Full Name and Surname

SERVICE LEVEL AGREEMENT

SLA: MM006 OF 2022

ANNEXURE A

Response times to requests (as per clause 4.4)

Category	Description	Response Time
Time-sensitive issue	<p>Code issue, service outage, performance issue or other outage.</p> <p>Example: The website goes offline due to an unknown reason.</p>	2 Business Hours
General Support Question	<p>General content changes.</p> <p>Example: Customer needs assistance posting an updated PDF form that needs to be posted.</p>	Within 1 business day
Added functionality requests	<p>Adding site functionality.</p> <p>Example: Customer needs assistance with creating a new form to the website.</p>	Within 3 business days <i>Depending on the complexity of the requested added functionality, a meeting to discuss project timeline may be necessary. This will be scheduled within 3 business days.</i>
Web project consultancy	<p>Project-related discussions</p> <p>Example: The Customer knows what they want to achieve on their web page/site but is unsure of the tools and expertise required to meet that goal.</p>	Meeting will be scheduled to determine project timeline within 3 business days

