

## Appendix 2 - Standard contract template for indirect participation of a legal person

### Contract for indirect participation in the Albanian Financial Instruments Settlement and Registration (AFISaR) system through the Bank of Albania

#### Parties

**Bank of Albania**, in the capacity of the **Administrator** of the AFISaR system and the Operator of the account of the indirect participant in the AFISaR (hereinafter referred to as the "**Administrator**"), registered address in: Sheshi "Skenderbej", No. 1, Tirana, Albania, represented in this contract by Mr. Marian Gjermeni, Head of Monetary Operations Department,

and

\_\_\_\_\_, in the capacity of the **Indirect participant** (hereinafter referred to as the **Participant**), registered address in \_\_\_\_\_, license no \_\_\_\_\_, represented in this contract by Ms./Mr. \_\_\_\_\_ passport/ID no. \_\_\_\_\_

Having regard to the following:

1. Law No. 8269, dated 23.12.1997 "On the Bank of Albania", as amended and the agreement between the Bank of Albania and the Ministry of Finance, the Bank of Albania is the fiscal agent of the Government;
2. Article 31 of the Law No. 9665, dated 18.12.2006 "On state borrowing, state budget and state loan guarantees of the Republic of Albania", the Bank of Albania, in the capacity of the fiscal agent of the Government, creates, maintains the registration system in the accounts for the state securities, and supports the creation of the secondary securities market, by facilitating the use of the registration system; and
3. Article 12 of the Decision No. \_\_\_\_\_, dated \_\_\_\_\_2014 of the Supervisory Council of the Bank of Albania "On the approval of Regulation 'On the functioning of the central financial instruments settlement and registration (AFISaR) system'" (hereinafter referred to as the **Regulation**), the entity that wishes to participate in the AFISaR system, shall conclude the contract with the Administrator for participation in the AFISaR system;

Agree to sign this contract according to the following conditions:

## **Article 1**

### **Scope**

The contract establishes the rights and obligations of the Administrator, which arise in the context of it providing services for the settlement and registration of securities in the AFISaR system, as the sole owner and administrator of this system, and in the role of the operator in the indirect participant's account, and of the indirect participant conform to the terms of this contract and the Regulation.

## **Article 2**

### **Legal basis**

The contract shall be concluded pursuant to articles 659 *et seq* of the Civil Code of the Republic of Albania and the Regulation of the Bank of Albania.

## **Article 3**

### **Definitions and interpretations**

5. The terms used in the contract shall be the terms as defined in the Regulation.
6. Any term or provision of the contract that may give rise to ambiguity shall be interpreted in the context of the Regulation and from the perspective of the purpose for which the parties conclude this contract.
7. For all the issues that are not explicitly stipulated in this contract, the provisions of the Regulation shall apply, and if the latter do not regulate specific issues, the applicable legal and sublegal acts in this field, as cited in the legal basis of the Regulation shall apply.

## **Article 4**

### **Documentation**

The application request, together with the documents required by the Regulation, submitted by the Participant, shall be attached to the contract and shall be an integral part of it.

## **Article 5**

### **Entry into force and duration**

This contract shall enter into force upon signing by the parties and shall extend its effects for an undetermined period of time.

## **Article 6**

### **Means and form of communication**

3. To send/receive payment instructions in relation to transactions of securities settled and registered in the AFISaR system, the Participant shall use written orders as a means of communication.
4. Written orders shall be executed by the Administrator, in accordance with the schedule of the system as set out in the Regulation.

## **Article 7**

### **Securities account**

1. The Administrator shall open a securities account for the Participant in the AFISaR system and shall notify the Participant in accordance with Annex 1, an integral part of this contract.
2. The Participant may ask for opening more than one securities account in the same currency and/or in different currencies as established by the Administrator.

## **Article 8**

### **Settlement agent**

1. The Participant shall inform the Administrator about the settlement agent it has selected, in accordance with Annex 2, an integral part of this contract.
2. A notification on the change of the settlement agent may be sent at any time by the Participant by presenting Annex 2, but it shall become effective on the following business day in the AFISaR system.

## **Article 9**

### **Rights and obligations of the parties**

The parties shall have all the rights and obligations set out in the Regulation, whose implementation is mandatory.

## **Article 10**

### **Participation fees**

1. The Participant shall pay the fees set forth in the Regulation for his account in the AFISaR system and other obligations arising from his transactions, without delays.
2. The system Administrator and, at the same time, the Participant's account operator may provide analytical information to the Participant on participation costs.

## **Article 11**

### **Confidentiality**

The parties commit to keep confidential the information provided reciprocally, making maximum efforts to minimise as much as possible the number of people having such information.

## **Article 12**

### **Authorised persons**

The Participant, upon the signing of the contract, shall notify the Administrator about the authorised persons, who are entitled to sign orders on his behalf.

## **Article 13**

### **Modification of the contract**

The terms of the contract may be modified upon signing by both parties.

## **Article 14**

### **Force Majeure**

The parties shall not be held liable for any breach of contractual obligations resulting from a Force Majeure, for which the other party shall be notified immediately.

## **Article 13**

### **Notices**

5. Any notice, request or other formal communication between the parties, except for the communication specified in Article 6 of this contract, shall be made via official registered mail, fax, e-mail, or when this is not possible, via telephone.
6. When the notice, request or communication arrives to the addressee after 16.30 hours, it shall be considered as received at 08.30 hours of the following business day.

7. The parties shall notify each-other on eventual changes of address, within 5 (five) business days from the change.
8. The parties shall notify each-other immediately on eventual changes regarding their representatives.

## **Article 16**

### **Termination of the contract**

3. The parties may terminate the contract when they both agree, or unilaterally for failure to perform important obligations, by notifying the other party in writing at least 15 (fifteen) days prior to the date they wish to terminate the contract, requesting the fulfilment of matured financial obligations, which may arise from the contract.
4. For all the other cases of contract termination that are not envisaged in this contract, the respective provisions in the Civil Code of the Republic of Albania shall apply.

## **Article 17**

### **Resolution of disputes**

For disputes between the parties arising out of or in connection with the implementation of the contract, that the parties cannot resolve amicably, the competent body for their settlement shall be the District Court of Tirana.

## **Article 18**

### **Final provisions**

5. For resident participants, the contract shall be signed in 2 (two) original copies in Albanian; each party shall keep one copy.
6. For non-resident participants, the contract shall be signed in 4 (four) original copies: 2 (two) in Albanian, and 2 (two) in English; each of the parties shall keep 1(one) copy in Albanian and 1 (one) in English.
7. In case of discrepancy between the text in the contract in Albanian and in English, the Albanian language version shall prevail and shall be binding.
8. The contract, after being read by the parties, shall be signed in their free and independent will.

**For the Bank of Albania:**

**For** \_\_\_\_\_

**Marian Gjermeni**

**Head of Monetary Operations Department**

**Annex 1. Securities account in the AFISaR**

1. Securities account/accounts in ALL:

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2. Securities account/accounts in foreign currency:

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**Signature by the representative of the Bank of Albania**

## **Annex 2 Settlement agent**

The settlement agent for ALL transactions

shall be the [name of] Bank\* \_\_\_\_\_

The account no. by the settlement agent \_\_\_\_\_

The settlement agent for foreign currency-denominated transaction:

In currency \_\_\_\_\_

shall be the [name of] Bank\* \_\_\_\_\_

The account no. by the settlement agent \_\_\_\_\_

**Signature by the legal representative of the Participant/Stamp**

\*The above-mentioned accounts shall be certified by the attached certificates, issued by the settlement agent.



