



Albanian-American
Development Foundation

SALES CONTRACT

Between

Albanian-American Development Foundation

And

[insert Beneficiary]

And

[insert Seller]

For

[INSERT DESCRIPTION OF THE PURCHASE]

Date: month, date, 202_

Contract No: __-__

This Sales Contract (the “**Contract**”) is made on this ___ day of ___, 202_ by and between the following parties:

ALBANIAN-AMERICAN DEVELOPMENT FOUNDATION, a non-for-profit organization duly organized and established under the laws of the state of Delaware, with registered seat at 780 Third Ave, Floor 46, New York, NY 10017, U.S.A. through its Albanian branch registered by virtue of Tirana District Court decision no. 359 dated 18.03.2011, with tax number L11618452N and registered address at Rr. Ibrahim Rugova, building no. 42, entrance 7, apartment 60, 1019, Tirana, Albania, duly represented by Mr. Martin Mata and Mr. Aleksandër Sarapuli (“**AADF**” or the “**Buyer**”);

and

DRILON TUSHEMISHT WATERSCAPE PARK CENTER, a non-profit organization in the form of “Center”, duly organized and established under the laws of Albania, registered by virtue of Tirana Court Decision no. 1798, dated 13.02.2023, with legal seat at the address: [insert], Shqipëri, duly represented by its Executive Director, Mr. Erjon Vesho (the “Beneficiary”);

and

[insert company], duly organized and established under the laws of Albania, registered with the National Business Centre with unique identification number [•], with legal seat at the address: [•], Albania, duly represented by [•], in the capacity of its Administrator (the “**Seller**”).

Collectively, the Buyer, the Beneficiary and the Seller are referred to as “**Parties**” and individually as “**Party**”

WHEREAS:

(A) [INSERT DESCRIPTION];

THEREFORE, the Parties hereby agree as follows:

1. OBJECT

- 1.1 The Seller shall supply to the Buyer, for the benefit of the Beneficiary, [SPECIFY THE PURCHASED GOODS] as per the description, technical specifications, quality and quantity provided in Annex I attached hereto, which constitutes an integral part of this Contract (the “**Equipment**”) and perform [INSERT ANCILLARY SERVICES, IF APPLICABLE] (the “**Ancillary Services**”). Substitutions are not acceptable, unless otherwise acknowledged and accepted by the Buyer in writing.
- 1.2 The Beneficiary agrees that the Equipment purchased for the benefit of the latter shall be used only for purpose of the Project.
- 1.3 The Seller declares and warrants that the Equipment are in accordance with the details and technical specifications determined in Annex I and that will provide the Beneficiary, with the necessary licenses for the use of the Equipment [IF APPLICABLE].
- 1.4 [IF APPLICABLE] In addition to the Ancillary Services determined under Clause 1.1 above, the Seller will provide repairment/replacement services during the Warranty Period provided under Clause 9 of this Contract.

2. TERM

This Contract shall be effective from the date of its signature by the Parties until completion of the [WARRANTY PERIOD/PARTIES' OBLIGATIONS HEREUNDER] [AS APPLICABLE].

3. DELIVERY OF THE EQUIPMENT

3.1 The Seller shall deliver the Equipment in the premises of the Beneficiary in the address: [INSERT], within [INSERT] days from the signature of this Contract.

3.2 The Seller undertakes to notify the Buyer and the Beneficiary at least [INSERT] hours prior to delivery, for the exact date and hour of delivery of the Equipment in the premises of [BUYER/BENEFICIARY]. Upon receiving the notice, the Buyer shall notify to the Seller the authorized persons to receive the Equipment on behalf of the Beneficiary, at least [INSERT] hours prior to the hour determined for the delivery of Equipment.

3.3 The Seller shall bear all risks and expenses related to the transportation and delivery of the Equipment at the premises of the Beneficiary in the address: [INSERT].

3.4 Upon receipt of the Equipment, the Seller and the Beneficiary's authorized representatives shall sign the Delivery Document, by designating the Equipment delivered which shall comply with the details provided under Annex I attached hereto, their quantity and a description of their physical condition.

3.5 Delivery of Equipment shall be accompanied with the following documentation:

3.5.1 Invoice issued by the Seller, including name of the Buyer, NUIS, quantity and the specifications of the Equipment and price per unit;

3.5.2 Technical documentation and manuals for the use of Equipment;

3.5.3 Certificate of origin;

3.5.4 CE Certificate of Conformity;

3.5.5 Warranty of the Equipment [IF APPLICABLE];

3.5.6 Any other documents required under the applicable law.

3.6 The Beneficiary is entitled to refuse the delivery of the Equipment in the following cases:

3.6.1 The delivered Equipment do not comply with the technical specifications determined under Annex 1;

3.6.2 The invoice issued by the Seller upon delivery of the Equipment does not contain the entire information required under this Contract or does not comply with the prices determined under this Contract;

3.6.3 The delivery documents provided under Clause 3.5 above, are not complete.

3.7 Signing of the Delivery Document does not constitute and shall not be construed as acceptance of the Equipment or that the Beneficiary has no claim in relation to the Equipment.

4. ACCEPTANCE OF THE EQUIPMENT

4.1 The Beneficiary's authorized representative will be responsible for the receipt and acceptance of the Equipment, after their [ARRIVAL/INSTALLATION] at the Beneficiary's premises. [IF APPLICABLE] The Seller shall, through its specialized technical personnel, perform the installation, testing and commissioning of the Equipment, in the presence of the authorized representative of the Beneficiary.

- 4.2 Upon [DELIVERY OF THE EQUIPMENT/COMPLETION OF THE ANCILLARY SERVICES], the Beneficiary Beneficiary's representatives will compile and sign:
- 4.3.1 Handover Certificate (in two original copies, one original copy to be delivered to the Buyer), which certifies that the Beneficiary accepts the Equipment delivered by the Seller and has no claim in relation to them, except for any hidden defects of the Equipment which the Beneficiary cannot identify through reasonable control and testing of Equipment; or
- 4.3.2 Rejection Act (in two original copies, one original copy to be delivered to the Buyer), in which the Beneficiary must state the reasons why the delivered Equipment is not accepted by the latter. In such case, the Buyer has the right to terminate the Contract, partially or fully, or to request the Seller to supply the missing Equipment or replace the delivered Equipment that do not comply with Annex 1 or are damaged during their installation or transport. In case of termination of the Contract, the Buyer will not be liable to perform payment of the refused Equipment, pay the Seller any penalties or reimburse any expenses of any nature whatsoever. In the event that replacement of the Equipment is requested, the rejected Equipment must be replaced by the Seller at his own expense within a period of [INSERT] working days from the day the rejection was notified. The rejection of the Equipment interrupts the term specified for the payment of the respective value of the rejected Equipment, until their replacement and acceptance by the Beneficiary.
- 4.3 Upon receipt by the Buyer of the Handover Certificate, duly signed by the Beneficiary and acknowledged by the Buyer's contact person, the Buyer is obliged to pay in accordance with Clause 5 below, the respective amount of the invoice issued by the Seller for the delivered and accepted Equipment.

5. PRICE AND PAYMENT

- 5.1 In respect of the Equipment to be supplied by the Seller, the Buyer shall pay to the Seller a total amount of [INSERT], VAT [INCLUDED/EXCLUDED] (the "Price"), as stipulated in Annex I, payable fully or partially in accordance with the Equipment accepted by the Beneficiary.
- 5.2 [IF APPLICABLE] The Price includes any expense and taxes payable by the Buyer for installation, testing and commissioning costs, required software licenses for the use of the Equipment, as well as the warranty services.
- 5.3 Payment shall be made within 15 (fifteen) working days from approval of the invoice by AADF and receipt of the Handover Certificate by AADF as per Clause 4.1.
- 5.4 [IF APPLICABLE] The Buyer shall retain [INSERT] % of the Price as warranty for performance by the Seller of the warranty conditions under this Contract, for a period of [INSERT] year/s. This value is payable [INSERT] % after first year of Warranty, [INSERT] % after second year of Warranty [...] [AS APPLICABLE], if the Equipment is in good condition and the Seller has made any necessary replacement/repairment of the Equipment under the warranty conditions. Should the Seller fail to comply with its obligations under the warranty conditions, the Buyer shall deduct the relevant expenses made by the latter for the repairment of the Equipment from the warranty amount up to [INSERT]% of the Price.
- 5.5 Payment of the Price shall be performed by the Buyer in favor of the Seller through bank transfer (with shared charges), at the following bank account:

Beneficiary name:
Bank name:
Account no.:
SWIFT:
IBAN:
Currency:

6. RIGHTS AND OBLIGATIONS OF THE SELLER

- 6.1 The Seller hereby represents and warrants to the Buyer and the Beneficiary that:
- 6.1.1 the delivered Equipment are: (i) new, free from any defects in workmanship and materials, (ii) comply with the technical specifications required by the Buyer, (iii) have the required and agreed quality and (iv) are fit for the purpose of use;
 - 6.1.2 the Seller shall convey to the Beneficiary good ownership title to the Equipment and that the Equipment shall be delivered free from any claims of third parties, including any lien, charge and pledge or securing charges.
 - 6.1.3 the Equipment delivered hereunder shall be free from any hazardous materials, substances, chemical or residues of chemicals in accordance with the applicable law and will be CE compliant (with CE marking);
 - 6.1.4 *[IF APPLICABLE]* the Equipment shall not contain any viruses or other malicious code that will degrade or infect any product, service or any other software or the Beneficiary's network or systems;
 - 6.1.5 the Seller is authorized by the manufacturer of the Equipment and has qualified personnel for the provision of the services for the installation, testing and commissioning of the Equipment *[IF APPLICABLE]*;
 - 6.1.6 *[IF APPLICABLE]* the Seller shall, during the Warranty Period provided under Clause 9 below, repair or in case repairment is not possible, replace any defective Equipment as provided under this Contract;
 - 6.1.7 *[IF APPLICABLE]* the Seller undertakes to perform any other service in functioning of commissioning the Equipment sold to the Buyer, according to the requirements of the Buyer, despite not being specified under this Contract;
 - 6.1.8 The Seller shall appoint a representative to liaise with the Beneficiary's representative.

7. RIGHTS AND OBLIGATIONS OF THE BUYER

- 7.1 The Buyer undertakes to pay the Price to the Seller as provided under Clause 5 herein;

8. RIGHTS AND OBLIGATIONS OF THE BENEFICIARY

- 8.1 The Beneficiary shall become the owner of the Equipment upon the payment of the Price under Clause 5 herein;
- 8.2 The Beneficiary, in coordination with the Buyer, shall appoint a representative as contact point with the Seller, for the receipt and acceptance of the Equipment and provision of the Ancillary Services, and also repairment/replacement services *[IF APPLICABLE]* as provided under this

Contract.

- 8.3 The Beneficiary undertakes to allow the authorized employees of the Seller, to enter the premises of the Beneficiary for as long as it is necessary for the delivery of the Equipment and provision of repairment/replacement services [*IF APPLICABLE*].

9. [*IF APPLICABLE*] WARRANTY PERIOD

- 9.1 The period of warranty of the Equipment is [*INSERT*] year/s, starting from their acceptance by the Beneficiary ("**Warranty Period**"). During the Warranty Period, the Seller shall repair or, in case repairment is not possible, replace the defective Equipment without extra payment. The warranty provided under this Clause, shall cover and is valid for the Equipment, as well as embodied parts of the Equipment and any other part thereof, except the normal consumption of the Equipment.
- 9.2 The Equipment supplied in replacement of defective Equipment shall be delivered and installed by the Seller within [*INSERT*] days from the Beneficiary's relevant request in writing, with a copy to the Buyer. The Seller shall bear the costs of re-delivering the new replacement Equipment and any additional expenses, including transport costs.
- 9.3 During the Warranty Period, the Seller will provide services for repairment and/or replacement of Equipment, and will repair any hidden technical defects of the Equipment discovered by the Beneficiary after their acceptance, except for those damages caused by the misuse of the Equipment.
- 9.4 The Warranty Period for each Equipment is suspended on the day when the defect is ascertained and restarts on the day when the defect has been repaired or the Equipment has been delivered in the premises of the Beneficiary, in case the repairment is made in the premises of the Seller.
- 9.5 During the Warranty Period, the Seller is responsible for the professional quality, technical accuracy and coordination of all repairment/replacement services. The Seller will repeat the performance of repairment/replacement services of Equipment that are proven to have been defective, correct or review any errors or omissions during its operation, at no additional charge, upon receipt of the request from the Beneficiary and regardless of the planning agreed between the Parties.
- 9.6 In the event of defects or damage caused to the Equipment or their components, as a result of a non-compliance, action or omission of the Seller during the Warranty Period, the Seller is responsible for repairing these defects, at its own cost and/or replace the damaged Equipment or components with new equipment or components of the same quality or reimburse the Buyer for all costs and expenses associated with the replacement of the Equipment or their components.
- 9.7 Should the Seller not repair or replace the defected Equipment or their spare parts pursuant to Clause 9 herein, the Buyer is entitled to contract a third party for the provision of such services and the Seller shall compensate the Buyer for any cost or expense made for such services.

10. PENALTIES

- 10.1 In case of late delivery and commissioning of the Equipment and/or warranty services for any reason [*IF APPLICABLE*], the Seller shall pay to the Buyer a penalty amounting to 1% of the

value of the delayed Equipment per day of delay up to the total value of the Contract. The Buyer shall deduct this amount from the due payment under the provisions of this Contract. Payment of the penalty does not release the Seller from the obligation to fulfill the obligations under this Contract.

- 10.2 In case of late delivery of the Equipment, without prejudice to Clause 10.1, the Seller undertakes to deliver to the Beneficiary at the agreed date of delivery as per Clause 3.1, equipment in the same quantity and with comparable technical specifications required under Annex I, for temporary use until delivery and commissioning of the Equipment.

11. CONFIDENTIALITY

- 11.1 The Seller agrees to treat as confidential any information, data, document, results of analyses, received by the Buyer and/or Beneficiary or obtained from any other source, in connection with this Contract, including, but not limited to, this Contract or information concerning the Buyer's and/or Beneficiary's business or operations (the "**Confidential Information**").
- 11.2 The Seller shall not use such Confidential Information other than for the purposes of this Contract and not disclose it to any third parties unless:
- it is or later becomes public knowledge by means other than by breach of this confidentiality obligation, or
 - it is required to be disclosed to any competent regulatory body, governmental authority or court;
 - it is required by law or by the Buyer and/or Beneficiary to be disclosed.
- 11.3 The Seller shall ensure that such Confidential Information will only be disclosed to persons to whom it is necessary to disclose the Confidential Information for the purpose of considering, advising or furthering the fulfilment of the obligations under the Contract, provided they are informed by the Seller of the confidential nature of the Confidential Information and the terms of this confidentiality obligation before disclosure of the Confidential Information to them.
- 11.4 The Seller shall ensure that any persons to whom such Confidential Information is to be disclosed shall comply with the terms of this confidentiality obligation and that each of such persons will keep the Confidential Information confidential and secret.
- 11.5 The confidentiality obligation shall continue notwithstanding termination of the Contract.

12. INDEMNITY

The Seller agrees to defend, indemnify and hold the Buyer and the Beneficiary, their officers, directors, employees, and agents harmless from any claims or damages, including attorney fees, arising out of acts or omissions of action in connection with Equipment supplied pursuant to this Contract.

13. TERMINATION

- 13.1 The Buyer reserves the right to terminate this Contract at any time, partially or fully, if the Seller defaults in its obligation to fulfill the conditions set forth in this Contract and does not remedy its failure within 5 (five) days from notice sent by the Buyer.
- 13.2 The Seller is entitled to terminate the Contract if the Buyer fails to timely perform the payment, as provided under Clause 5 herein and does not remedy its failure within 5 (five) days from notice sent by the Seller.

13.3 The provisions of this Contract that by their nature are intended to survive termination shall survive any completion, rescission, expiration or termination of this Contract.

14. NOTICES

All notices and communications to be given under the Contract shall be in writing and shall be delivered to the addresses below, or such other address as may be designated by a party from time to time. Such notices shall be delivered by hand (including by recognized overnight courier service) or by certified or Express mail, all charges and postage prepaid, to the attention of:

For the Buyer:

Contact person: [insert]
Address: [insert]
E-mail: [insert]

For the Seller:

Contact person: [insert]
Address: [insert]
E-mail: [insert]

For the Beneficiary:

Contact person: [insert]
Address: [insert]
E-mail: [insert]

Routine communications relating to the performance of the Contract may be conducted by electronic mail but the Parties agree that any communication by electronic mail shall not amount to notice in writing for the purposes of the Contract.

15. GOVERNING LAW AND JURISDICTION

15.1 This Contract is construed in compliance with and governed by the laws of the Republic of Albania.

15.2 In case of any disputes between the Parties with regard to this Contract, the Parties shall make every effort to settle amicably such disputes through negotiations between them. Should the attempt to reach an amicable settlement of dispute fail, such dispute shall be finally resolved by Tirana District Court.

16. MISCELLANEOUS

16.1 **Entire Agreement.** This Contract and its Annexes constitute the entire agreement between the Parties in relation to its subject matter and supersedes all agreements and representations made by either Party, whether oral or written, in relation to its subject matter. This Contract may not be modified except by written instrument duly executed by the Parties.

16.2 **Assignment.** Neither this Contract nor any of the rights, interests, or obligations under this Contract shall be assigned by either Party without the prior written consent of the other Parties.

16.3 **Force Majeure.** Parties shall not be liable towards each-other, in the event of delay or non-fulfilment of their obligations as per the Contract, resulting from events such as: natural disasters, acts of public enemy, war declared or not, epidemics, landslides, earthquakes, storms,

floods, erosion holes, civil disturbances and any other event that is beyond such Parties' control and may not be circumvented, even though they are acting with all due diligence ("**Force Majeure**"). In case that the event of Force Majeure continues for more 30 (thirty) days, the Buyer or the Seller may terminate this Contract by giving written notice to the other Party.

- 16.4 **Governing Language.** This Contract has been executed in English; English shall be the binding and controlling language for all matters relating to the meaning or interpretation of this Contract.
- 16.5 **Conflict of Interest.** The Seller agrees that it will not act for the Buyer and the Beneficiary if a conflict of interest exists or is likely to exist. The Seller will notify the Buyer and the Beneficiary in a comprehensive manner on any potential future conflicts of interests, or conflicts already in place and the Buyer will decide on the waiver of the conflict of interest on case-by-case basis.
- 16.6 **Other Expenses.** Except as otherwise expressly provided in this Contract, each Party will bear its own expenses in connection with the preparation, execution, and performance of this Contract.
- 16.7 **Severability.** Each provision or term of this Contract constitutes a separate and independent provision. If any of the provisions of this Contract are judged by any court or authority of competent jurisdiction to be void or enforceable, the remaining provisions shall continue in full force and effect and, if legally permitted, such offending provision or provisions shall be replaced with an enforceable provision or enforceable provisions that as nearly as possible effects the Parties' intent.
- 16.8 **Waiver.** Failure of either Party to exercise in any respect any of the rights provided for herein shall not be deemed a waiver of any right hereunder. No waiver of any rights under this Contract will be effective unless in writing signed by the Party to be charged.
- 16.9 **Debarment, Suspension, Ineligibility, and Voluntary Exclusion.** The Seller certifies that neither it nor its principals is presently excluded or disqualified from participation in this transaction by any U.S. Government department or agency.
- 16.10 **Prohibited Practices.** The Seller agrees that it shall, at all times during the term of this Contract, comply with this clause including reporting to AADF or the Beneficiary any suspicion the Seller has, or is informed of, regarding the use of a Prohibited Practice in relation to a AADF or Beneficiary project.

"**Prohibited Practices**" are one or more of the following, as of the date of this Contract:

- **coercive practice** means impairing or harming, or threatening to impair or harm, directly or indirectly, any party or the property of the party to influence improperly the actions of a party;
- **collusive practice** means an arrangement between two or more parties designed to achieve an improper purpose, including to influence improperly the actions of another party;
- **corrupt practice** means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence improperly the actions of another party;
- **fraudulent practice** means any act or omission, including a misrepresentation, that knowingly or recklessly misleads, or attempts to mislead, a party to obtain a financial or other benefit or to avoid an obligation; and
- **theft means** the misappropriation of property belonging to another party.

AADF, without prejudice to any other remedy for breach of Contract may, by written notice, terminate this Contract if in its judgement, the Seller has engaged in Prohibited Practices in competing for or in executing the Contract.

16.11 Compliance with U.S Laws and Executive Orders. The Seller shall comply with all U.S. laws, U.S Executive Orders or regulations, including but not limited:

16.11.1 Restrictions on Certain Telecommunications and Video Surveillance Services or Equipment. Seller shall not use the funds provided under this Contract to acquire, directly or indirectly, telecommunications or video surveillance services or equipment produced by Huawei Technologies Company, ZTE Corporation, Hytera Communications Corporation, Hangzhou, or any subsidiary or affiliate of these entities, as stipulated under Section 889 of U.S Public Law 115-232;

16.11.2 Restrictions on Transactions and Support. Seller shall not engage in transactions, provide resources or support to, or finance the following:

- a. individuals or entities associated with terrorism, human rights abuses, narcotics trafficking or any other activity contrary to U.S national security or foreign policy objectives, including those on U.S. export controls or sanctions list;
- b. the manufacture or sale of abortion equipment or the provision of abortions services;
- c. the manufacture or sale of munitions articles or services related to arms production;
- d. activities which would be inconsistent with the criteria stated in Section 547 of the Foreign Operations, Export Financing and Related Programs Appropriations Act of 1994 and comparable provisions of subsequent statutes.

16.11.3 Flow Down Requirement. This provision, including all compliance and restriction requirements, must be included in all subcontracts or subawards issued under this Contract.

16.11.4 Notification of Violation. Seller shall immediately notify AADF if it becomes aware of an actual or potential violation of the provisions under this Clause and take prompt corrective actions to ensure compliance.

16.12 Annexes. This Contract contains the following Annex as described below, which forms an integral part of this Contract and has the same legal effect as this Contract:

- **Annex I: Description of the Equipment;**

In the event of any conflict or inconsistency between the main body of this Contract and the terms of such Annex, the former shall prevail.

The Parties below have read and agree to be bound by this Contract, executed in [INSERT] original copies as of the date first written above.

FOR ALBANIAN AMERICAN DEVELOPMENT FOUNDATION (AADF)

By: Aleksandër Sarapuli & Martin Mata
Its: Co-CEOs

FOR THE SELLER

By: [insert]
Its: [insert]

FOR THE BENEFICARY

By: [insert]
Its: [insert]

ANNEX I
Description of the Equipment