



LAW NO. 47-20

OF PUBLIC-PRIVATE PARTNERSHIPS



THE NATIONAL CONGRESS IN THE NAME OF THE REPUBLIC

LAW NO. 47-20 OF PUBLIC-PRIVATE PARTNERSHIPS

Whereas: That the fulfillment of the essential function of the State, established in the Constitution of the Republic and the achievement of the vision of the nation for the long term, foreseen in the National Development Strategy 2030, requires the State to provide infrastructure and public services of quality, either on its own account or by delegation, including the joint venture, within a framework of universality, accessibility, efficiency, transparency, responsibility, continuity, quality, reasonableness and fair rates.

Whereas: That, in accordance with the Constitution of the Republic, the country's economic regime is oriented towards the pursuit of human development, within a framework of free competition, equal opportunities, social responsibility, participation and solidarity, for which it is essential that the State, in association with the private sector, promotes balanced and sustained growth of the economy and increased social welfare, while ensuring the population's access to basic goods and services.

Whereas: That the projects and investments necessary for an adequate provision, management and operation of goods, infrastructures, and public services, requires the establishment of institutional or contractual mechanisms that allow reconciling the search for profits from private activity with counterparts and compensation appropriate to the public interest and satisfaction of the general interest.

Whereas: That the Dominican Republic has experienced sustained economic growth that has improved the climate for investment, both national and foreign, which generates favorable conditions for the participation of the private sector in the development of infrastructures and the provision of services, in a framework of trust and cooperation with the public sectors.

Whereas: That through strategic partnerships based on joint responsibility and the joint effort of different sectors, the continuous economic growth of the Dominican Republic is promoted within the framework of sustainability.

Whereas: That the formation and development of public-private partnerships requires a consistent and predictable regulatory and institutional framework, which establishes clear roles, responsibilities, and processes for the public and private stakeholders involved, as well as adequate regulation for the definition, classification, and distribution of risks, in an environment of transparency, legality, equality and free competition that effectively protects the national interest.

Whereas: That international experience in public-private partnerships reveals that its development and implementation can cope more timely traditional budgetary constraints to promoting the implementation and operation of works and services from the private sector and diversify the range of services and public infrastructure, allowing the incorporation of innovations and new initiatives.

Whereas: That it is an integral part of the Government's objectives to strengthen the coordination of the set of social policies, articulated with economic policies, and to advance towards a new institutional framework based on partnerships between the State and civil society.

Whereas: That the National Development Strategy 2030 and other sectorial laws identify various sectors that are the focus of investment for the development of infrastructures and the provision of public services, such as the provision of water, electricity, fuel, agriculture, tourism, information and communication technologies, road network and others, necessary for the progressive and sustainable development of the country.

Whereas: Which it is part of the national interest the development of public policies based on strengthening public-private partnerships to guarantee investment flows needed to modernize and timely maintenance to different service networks and public goods.

Seen: The Constitution of the Republic.

Seen: Law No. 340-06, on Purchases and Contracts of Goods, Services, Works, and Concessions of August 18, 2006.

Seen: Law No. 176-07, of the National District and the Municipalities of July 17, 2007.

Seen: Law No. 41-08, on Public Function and creates the Secretary of State for Public Administration of January 16, 2008.

Seen: Law No. 189-11, for the Development of the Mortgage Market and the Trust in the Dominican Republic, of July 16, 2011.

Seen: Law No. 1-12, which establishes the National Development Strategy 2030, of January 25, 2012.

Seen: The Organic Law of Public Administration, No. 247-12, of August 9, 2012.

Seen: Law No. 107-13, on the Rights of People in their Relationships with the Administration and Administrative Procedure, of August 6, 2013.

Seen: Law No. 141-15, on Restructuring and Liquidation of Companies and Individual Merchants of August 7, 2015. It repeals articles 437 to 614 of the Commercial Code and Law 4582 of 1956, on the Declaration of Bankruptcy.

Seen: Law No. 155-17, of June 1, 2017, which repeals Law No. 72-02, of April 26, 2002, on Laundering of Assets from Illicit Drug Trafficking, except for articles 14, 15, 16, 17 and 33, modified by Law No. 196-11.

Seen: Law No. 249-17, on the Stock Market of the Dominican Republic, of December 19, 2017.

HAS ISSUED THE FOLLOWING LAW:

CHAPTER I

THE OBJECT, SCOPE, SUBJECTS OF REGULATION, DEFINITIONS AND PRINCIPLES OF THE LAW

Article 1.- Purpose. The purpose of this law is to establish a regulatory framework that regulates the initiation, selection, award, contracting, execution, monitoring, and termination of public-private partnerships.

Article 2.- Scope of application. This law is applicable throughout the national territory and is applied or regulated to the following bodies and entities:

- 1) Those that make up the Public Administration under the dependence of the Executive Power.
- 2) Decentralized and autonomous non-financial institutions.

- 3) The institutions of social security.
- 4) Non-financial public sector companies or agents that entrust private agents, under the modality of public-private partnerships, with the design, construction, operation, repair, expansion, or maintenance of a good of social interest or the provision of a service of the same nature.
- 5) Municipalities.

Paragraph I.- Permits, licenses, authorizations and the so-called concessions established in sectorial laws are outside the scope of this law, when they do not conform to the definition of public-private partnership established in article 4 of this law.

Paragraph II.- In the cases referred to in Paragraph I of this article, they will be governed by their respective legislation, and when appropriate, they will be governed in a supplementary manner under the bidding procedure of Law No. 340-06, on Purchases and Contracts of Goods, Services, Works and Concessions of August 18, 2006, and their modifications.

Article 3.- Principles. All public-private partnerships will be governed, from their inception to their termination, by the following principles:

- 1) **Efficiency.** Efforts will be made to select the offer that is most convenient for the fulfillment of the aims and goals established in the national development policies and strategies periodically arranged by the Government. The acts of the parties will be interpreted in a way that favors the fulfillment of said objectives under conditions favorable to the general interest.
- 2) **Equality and free competition.** In administrative contracting procedures, equal participation of all possible national and international bidders, who have the competencies required in the bidder qualification phase, shall be respected. The regulation (s) of this law and provisions that govern the specific contracting procedures may not include any regulation that prevents free competition among bidders.
- 3) **Transparency and advertising.** Transparency and publicity. The public-private partnerships included in this law will be implemented at all stages in a context of transparency based on advertising and dissemination of actions arising from the application of this law to have the widest possible participation in competitive processes selection of awardee. In procurement procedures will be published by appropriate means as required by each process. All interested parties will have free access to the administrative contracting file and to the documentation and complementary information.

- 4) **Economy and flexibility.** The standards will establish clear rules to ensure the selection of the proposal evaluated as the most technically and economically convenient for the general interest. In addition, regulations that contribute to greater economy and speed in the preparation and selection of proposals and contracts will be considered.
- 5) **Equity.** The contract will be considered where the interests of the parties condition each other. The rights and obligations of the parties will be correlated with equivalence of honesty and justice.
- 6) **Responsibility, morality, and good faith.** The public servants involved in all the processes described in this law will be obliged to ensure the correct and objective execution of the acts that entail the processes of selection of awardee, contracting, compliance with the object of the contract and the protection of the rights of users, the contracting public entity, the contractor and third parties that may be affected by the execution of the contract. Public entities and their servers will be liable to the sanctions provided by current regulations.
- 7) **Participation.** The State will seek the participation of the largest possible number of competitors in all the processes provided for in this law, if they have the required competence and financial solvency for the effective execution of the contract.
- 8) **Reasonableness.** The action, measure, or decision of the competent authority in the application and interpretation of this law shall not exceed what is necessary to achieve the objectives of transparency, legality, equality and free competition, and effective protection of the public interest and welfare. Said actions, measures or decisions shall not order or prohibit more than is reasonable and fair considering the provisions of this law.
- 9) **Continuity-stability.** In public-private partnerships, the successful bidders and the contracting authority will ensure the correct execution of the contract, preventing the causes that generate interruptions, insecurity, improvisations, inconveniences or dangers to the users of the goods or services or those provided for in the sectorial regulations in force, except when the reasons that have altered the normal provision of the service are to guarantee the safety of the users, the urgent repair of the work or due to force majeure.
- 10) **Regularity.** The successful bidders of the public-private partnerships will have the obligation to provide the service without interruption with the quality standards established in the contract, avoiding inconsistencies in the execution of the contract. In the event of interruptions in the provision of the service, the contracting entities must qualify the effects of the non-compliance and agree with the successful bidders the necessary mechanisms for the resumption of the provision of the good or service, and the

compensation for the non-compliance, except when unforeseeable circumstances or force majeure occurs.

- 11) **Generality.** All public-private partnerships are required to provide goods or services or operate social interest in the terms established by the contract in accordance with legal regulations applicable to the matter.
- 12) **Risk sharing.** Public-private partnerships involve risk sharing between the public and private sector, assigning them to those best able to manage to the lowest possible cost.
- 13) **Fiscal responsibility.** In the execution of all public-private partnerships it will consider the fiscal capacity of the state to acquire budgetary commitments, firm or contingent, avoiding compromising the sustainability of public finances.
- 14) **Accountability.** The process of selection and execution of public-private partnerships will include the mechanisms for registration, reporting, monitoring, evaluation, and inspection that allow an adequate exercise of accountability to society in general, to guarantee the prioritization of the common good and the promotion of users' rights.
- 15) **Due process:** Administrative proceedings shall be conducted in accordance with the rules of procedure and jurisdiction laid down in the Constitution and laws, with full guarantee of the rights of representation, defense, and contradiction.
- 16) **Socio-environmental sustainability:** All public-private partnerships will evaluate and implement their projects so that equitably meet developmental and environmental needs of present and future generations.

Article 4.- Definitions. For the purposes of this law, the following definitions are established:

- 1) **Agent:** Agent is understood to be the public entity or body and the private legal person that participates in the public-private partnerships.
- 2) **Awardee:** The awardee is the private agent who is selected as the counterpart of the public sector for the signing of the public-private partnerships contract and whose exclusive purpose will be to execute the public-private partnerships project.
- 3) **Public agents:** Public agents are the entities and organs of the State that make up the Public Administration and that, according to the scope of their competence, participate or present initiatives for the development of public-private partnerships in any of their typologies. According to article 2 they are subject to the application of the law.

- 4) **Private agents:** Private agents will be considered private legal entities that participate or present initiatives for the development of public-private partnerships in any of their types.
- 5) **Contracting authority:** Contracting authority is considered public servant who, by the nature of the object of public-private partnerships, is responsible for signing and administering the contract of public-private partnership.
- 6) **Public-private partnerships:** The public-private partnerships is the mechanism by which public and private agents voluntarily sign a long-term contract, as a consequence of a competitive process, for the provision, management or operation of goods or services of social interest in the one in which there is total or partial investment by private agents, tangible or intangible contributions by the public sector, distribution of risks between both parties, and the remuneration is associated with performance in accordance with the provisions of the contract.
- 7) **Non-profit public-private partnerships.** Non-profit public-private partnerships are understood to be the linking of legal entities of public law and non-profit, national, or international cooperation and development organizations, to carry out collaborative activities in the provision of goods or services of social interest, whose purpose is to promote the social development of the country. Said partnerships does not recognize the generation of any financial benefit.
- 8) **Financial benefit:** Financial benefit is the net profits derived in favor of the subscribing agents of the public-private partnership contract because of its implementation in the terms established in the contract.
- 9) **Good of social interest:** It is considered good of social interest to any work or asset whose use allows satisfying needs of collective interest, including public goods.
- 10) **Conflict of interest:** A conflict of interest is the situation in which the personal or economic interest of the public servant or of persons related to him, is or could reasonably be a conflict with the public interest.
- 11) **Public-private partnership contract:** The public-private partnership contract is the binding legal act signed between public and private agents through which the conditions of the public-private partnerships are established for the provision, design, construction, financing, management, operation, maintenance and total or partial administration of goods or services of social interest.
- 12) **Right of intervention or subrogation:** The right of intervention or subrogation is the power or prerogative recognized for the benefit of creditors to directly assume certain

rights or powers that originally correspond to their debtor, in the event of total or partial breach of their contractual obligations.

- 13) **Feasibility study:** It is the document in which the exhaustive technical and economic analysis of a project is detailed, which allows determining the conditions for its successful execution.
- 14) **Pre-feasibility study:** It is the document in which a first approximation of the technical and economic analysis of a project is detailed, and which allows determining, in a preliminary way and subject to more in-depth studies, if there is evidence that the execution of the project could be successful.
- 15) **Public-private partnership trust:** A public-private partnership trust is considered to be the trust established under the legislation on the matter for the exclusive purpose of managing a public-private partnership, to manage the assets and rights contributed, as well as issue and support issues of public offering of securities for these purposes; which, without having legal personality, will be considered as a subject of private law, with full legal capacity to be the holder of rights and obligations and intervene in justice as plaintiff or defendant.
- 16) **Initiative:** An initiative is considered to be any formal and documented proposal from private or public agents that aims to present a project with the purpose of satisfying a public need through a public-private partnership, as described in this law and regulations.
- 17) **Long term:** Long term is understood to be any period of time that is equal to or greater than five years.
- 18) **Bidder:** Any private agent who submits a formal proposal in the competitive bidder selection processes in response to a public call for the purpose of competing for a public-private partnership contract is considered a bidder.
- 19) **Offer:** It is the offeror's proposal in response to the public call that contains the technical, financial, economic, and legal conditions and documentation, in accordance with the terms established in the tender specifications.
- 20) **Private originator:** The private originator is the private agent that initiates the public-private partnership process, in accordance with the provisions of this law and its regulations once its initiative is declared of public interest.
- 21) **Public originator:** The public originator is the public agent that initiates the public-private partnership process, in accordance with the provisions of this law and its regulations.

- 22) **Grace request:** The grace request is the request for issuance of an administrative decision or authorization subject to the discretion of the State.
- 23) **Specifications:** It is the file of documents that specify the bases of the competitive process of selection of a project under the modality of public-private partnerships, in which the antecedents, objectives, scope, technical specifications, financial, economic, and legal requirements are indicated, evaluation and award criteria, and other terms of reference and conditions that guide or limit those interested in submitting offers.
- 24) **Competitive procedure for selecting the awardee of public-private partnerships:** The competitive procedure for selecting the awardee of public-private partnerships is the open and transparent method of selecting the private agents that have the greatest capacity to successfully carry out the project under the conditions most beneficial to the public interest.
- 25) **Selection process:** Selection process is the competitive and transparent procedure that seeks to select from among the bidders the most convenient proposal for the public interest.
- 26) **Project:** A project is understood to be the set of activities aimed at satisfying a good or service of social interest that executes public-private partnerships.
- 27) **Financial resources:** Financial resources are the set of liquid assets, including money, bank deposits and financial investments that can be converted into cash.
- 28) **Remuneration associated with performance:** The remuneration associated with performance is the economic remuneration that is conditional on meeting the standards of availability of goods or services of social interest, at the levels of quality and technical specifications stipulated in the contract.
- 29) **Service of social interest:** It is understood by service of social interest, the activities developed to satisfy the needs of collective interest, including public services.
- 30) **Contingent transfer of State resources:** A contingent transfer of State resources is considered to be that transfer that is only made in the event of probable events, as stipulated in the public-private partnership contract.
- 31) **Firm transfer of State resources:** It is that transfer that is carried out in a certain and programmed way as stipulated in the public-private partnership contract, and that is not subject to the occurrence of probable events.

- 32) **Value for money:** Value for money is understood to be the evaluation of project alternatives and options that allows to effectively determine whether private participation in said project in the long term adds more value than if it were carried out in an exclusively public investment scheme.

CHAPTER II FROM THE GENERAL DIRECTORATE OF PUBLIC-PRIVATE PARTNERSHIPS

Article 5.- Creation and legal nature. The General Directorate of Public-Private Partnerships is created as an autonomous and decentralized entity of the State, invested with legal personality, its own patrimony, administrative, jurisdictional, financial, and technical autonomy, which will be attached to the Ministry of the Presidency.

Paragraph. - In the exercise of its functions, it will promote and regulate public-private partnerships in an orderly, efficient, and transparent manner, will ensure compliance with this law and will mitigate the risks of projects under the modality of public-private partnerships, through regulation and supervision of public agents and private agents that intervene in said projects.

Article 6.- Character of the patrimony. The assets of the General Directorate of Public-Private Partnerships are unattachable.

Article 7.- Headquarters. The General Directorate of Public-Private Partnerships will have its headquarters in the city of Santo Domingo de Guzmán, with national jurisdiction in matters of regulation and control of public-private partnerships and may establish offices in other parts of the national territory.

Article 8.- Administrative organization. The General Directorate of Public-Private Partnerships is made up of a collegiate body that will be called the National Council of Public-Private Partnerships and by an executive officer, appointed by the President of the Republic, who will be in charge of the direction, control and representation of the General Directorate of Public-Private Partnerships.

Article 9.- Functions and powers. The General Directorate of Public-Private Partnerships will have the following functions and powers:

1) Administrative functions:

- a) Prepare the regulations of general scope to be issued by the Executive Power and dictate the standards and technical plans of scope, as established by this law and its regulations.

- b) Prevent anti-competitive or discriminatory practices, in accordance with this law and its regulations.
- c) Settle, in accordance with the principles of this law and its regulations and in safeguarding the public interest, the claims and controversies that may arise between public agents, private agents and bidders.
- d) Control compliance, supervision and monitoring of the normal execution of current public-private partnership contracts.
- e) Apply the sanctioning regime before the commission of administrative offenses provided for in this law.
- f) Manage your own resources.

2) Technical functions:

- a) Promote and coordinate with the competent public entities the regulations, plans, policies, standards, and initiatives required for the development and proper functioning of the different modalities of public-private participation provided for in this law.
- b) Receive and consolidate information regarding the promotion of public-private partnership projects.
- c) Issue the corresponding response to each of the proposals submitted by public and private agents, related to the phases of the selection process in accordance with the provisions of this law.
- d) Consolidate in a report the technical opinions of the different public entities that participate in the National Council of Public-Private Partnerships and others that may be invited or consulted.
- e) Conduct the phases of the procedures for the presentation, declaration of public interest and the selection process of private initiatives and offers described in articles 39 and 40 of this law.
- f) Keep the record and publication of all public-private partnership projects that are executed in the Dominican Republic, in accordance with the provisions of the regulations.
- g) Create and maintain a bank of projects as stipulated in this law.

- h) Perform secretarial work at meetings of the National Council for Public-Private Partnerships.

3) Promotion functions:

- a) Promote the scheme of public-private partnerships as an adequate instrument for the provision, management and operation of goods or services of social interest, among potential funders, national and international investors, and the community in general.
- b) Prepare guides, manuals, instructions or other forms of dissemination to facilitate knowledge of the public-private partnership scheme, project design, management, monitoring and evaluation.
- c) Promote among potential national and international investors the calls for competitive bidders selection processes, in order to guarantee the greatest number of bidders.
- d) Disseminate and promote the implementation of projects registered in the project bank.
- e) Develop and implement a public information policy for accountability to Dominican society.

Article 10.- Integration of the patrimony and ordinary sources of income. The General Directorate of Public-Private Partnerships will be financed as follows:

- 1) Resources from the General State Budget.
- 2) Resources from non-reimbursable international cooperation.
- 3) Resources provided by virtue of article 66 of this law.

Article 11.- Inspection. The General Directorate of Public-Private Partnerships is subject to the control system of public funds provided for in the Constitution of the Republic.

Article 12.- Hiring of consultants. The hiring of highly specialized companies and technical consultants for the technical, economic, legal and environmental evaluation of the initiatives and technical proposals for the realization of public-private partnerships provided for in this law carried out by the General Directorate of Public-Private Partnerships, in the exercise of their functions, will be carried out under the scheme of comparison of technical conditions, as described in the regulation or regulations of this law.

Article 13.- Hiring of personnel. The personnel of the General Directorate of Public-Private Partnerships will be under the special administrative career regime, which will be designed for such purposes in coordination with the Ministry of Public Administration.

SECTION I THE COUNCIL OF PUBLIC-PRIVATE PARTNERSHIPS

Article 14.- National Council of Public-Private Partnerships. The National Council of Public-Private Partnerships is created, as the highest organ of the General Directorate of Public-Private Partnerships, responsible for the functions of evaluating and determining the relevance of the public-private partnerships presented in accordance with this law.

Article 15.- Composition. The National Council of Public-Private Partnerships is made up of the following members:

- 1) Minister of the Presidency, who will preside over it.
- 2) Minister of Finance.
- 3) Minister of Economy, Planning and Development.
- 4) Legal Consultancy of the Executive Power.
- 5) General Director of Public Procurement, with voice and vote exclusively regarding the design and structuring of the competitive processes for the selection of the successful tenderer.
- 6) Executive Director of the General Directorate of Public-Private Partnerships, with voice, but without vote.

Paragraph I.- The decisions of the Council will be taken in accordance with the provisions of Law No. 107-13, on the Rights of People in their Relations with the Administration and Administrative Procedure, of August 6, 2013, in relation to the operation of the collegiate bodies.

Paragraph II.- The members of the Council may only be represented at meetings by an officer of an immediately lower hierarchy.

Paragraph III.- The National Council of Public-Private Partnerships may invite representatives of public bodies and entities that it considers relevant to participate depending on the initiative to be considered.

Paragraph IV.- The Technical Secretariat of the National Council of Public-Private Partnerships will be exercised by the director of the General Directorate of Public-Private Partnerships, who will participate in the sessions, with voice, but without vote.

Paragraph V.- The National Council of Public-Private Partnerships will invite the contracting authority to work sessions in the different phases of the evaluation and selection procedure provided for in articles 40 and 41, with the exception provided in Paragraph VI of this article.

Paragraph VI. - To avoid possible conflicts of interest, the contracting authority may not participate in the phases of evaluation of initiatives and declaration of public interest of public-private partnerships of public initiative that they have presented.

Article 16.- Powers. The National Council of Public-Private Partnerships, without prejudice to the specific attributions assigned to each of its members, has the following:

- 1) Evaluate and decide on the relevance of the initiative based on the National Planning and Public Investment System, national development policies and strategies and the priorities established by the Government, as well as what is established in the regulation or regulations of this law.
- 2) Evaluate and decide on the convenience of executing the initiative under the scheme and typology of public-private partnerships determined in this law.
- 3) Decide on the declaration of public interest for each public or private initiative presented.
- 4) Approve the draft internal regulations of the institution.
- 5) Approve the Institutional Strategic Plan and the Annual Operating Plan of the institution, presented by the executive director.
- 6) Analyze and recommend the availability of State resources required during the term of each public-private partnership contract, according to the technical evaluation carried out for such purposes.
- 7) Analyze and recommend the transfer requirements of State resources, firm and contingent, throughout the useful life of each initiative.
- 8) Approve the general models of the specifications and preparatory documents for the conclusion of the competitive processes for the selection of successful bidders and the standard clauses of contracts drawn up by the General Directorate of Public-Private Partnerships.

- 9) Approve the specific specifications for each competitive process for the selection of public-private partnerships.
- 10) Decide on the offers presented in the competitive bidder selection processes, in coordination with the contracting authority.
- 11) Issue the verdict recommending to the contracting authority whether or not to award the contract.
- 12) Approve the general contract models for public-private partnerships.
- 13) Specifically approve each public-private partnership contract.

Paragraph. - In the case of private initiatives, all the functions listed in this article must be performed in coordination with the contracting authority, as established in the regulation or regulations of this law.

Article 17.- Independence of action. It is a particular and independent obligation of each member of the National Council of Public-Private Partnerships the direct execution of the obligations placed in their charge by virtue of this law that do not merit the meeting or joint action of the body and therefore do not require an additional mandate for compliance.

Article 18.- Technical support area. In the ministries that are part of the National Council of Public-Private Partnership, and have technical powers in accordance with this law, a direction, department or technical unit will be created, in accordance with the provisions of the Organic Law of Public Administration, which will be in charge to carry out the studies and analysis necessary to support the decision-making described in this law.

SECTION II THE EXECUTIVE DIRECTOR

Article 19.- Executive direction. The General Directorate of Public-Private Partnerships will be directed by an Executive Director, who must meet the following requirements:

- 1) Be a Dominican in full exercise of civil and political rights.
- 2) Be over 25 years old.
- 3) Be a professional in economics, administration, finance, engineering, or law.

- 4) Have professional specialization at the master's or doctoral level in any of the following disciplines: engineering, corporate finance, project finance, project management, public administration, public policy, economic analysis of the law or administrative law.
- 5) Have experience for more than five (5) years in any of the aforementioned areas, in the public sector or in the business sector, and
- 6) Not to carry out any position or job of any nature except for teaching

Article 20.- Appointment. The Executive Director is appointed by the President of the Republic.

Article 21.- Powers of the Executive Directorate. The Executive Directorate of the General Directorate of Public-Private Partnerships will have the following powers:

- 1) Act as the Technical Secretariat of the National Council of Public-Private Partnerships, participating in the sessions with voice, but without vote.
- 2) Comply with and enforce the provisions of this law and its regulations, ensuring the correct application of its principles, provisions, and procedures.
- 3) Guide, direct, coordinate, supervise and control the technical and promotional functions in charge of the General Directorate of Public-Private Partnerships.
- 4) Legally represent the General Directorate of Public-Private Partnerships, before third parties and in justice, being able to validly sign all kinds of contracts and documents.
- 5) Prepare and submit to the consideration of the National Council of Public-Private Partnerships, the projects of the internal regulations of the institution.
- 6) Prepare and supervise the Institutional Strategic Plan and the Institution's Annual Operating Plan.
- 7) Present the annual reports and balances.
- 8) Propose the organic, functional and position structure, and remove the officials of the institution.
- 9) Appoint and remove the civil servants and civil servants of career and of simplified statute, previous fulfillment of the requirements established in the Statute of the Public Function and the regime of administrative career.

- 10) Contract professional and technical services for the institution for a specified time or for a specific work, according to the procedures that govern the matter.
- 11) Prepare the preliminary budget for the institution and present it to the National Council of Public-Private Partnerships.
- 12) Manage budget allocations and other financial resources necessary for the operation of the institution.
- 13) Carry out all the steps it deems necessary with international organizations to obtain additional cooperation resources for the development and implementation of projects, which are in accordance with the objectives and interests of the institution.
- 14) Monitor and control budget execution.
- 15) Exercise the other functions entrusted to it by law, regulations, and the National Council of Public-Private Partnerships.
- 16) Prepare and submit to the approval of the National Council of Public-Private Partnerships the specifications for the selection and award of each public-private partnership.
- 17) Prepare model contracts to be used in public-private partnerships.

CHAPTER III
THE ATTRIBUTIONS OF MINISTRIES OF STATE MEMBERS OF THE COUNCIL
AND PUBLIC ENTITIES

SECTION I
THE ATTRIBUTIONS OF THE MINISTRY OF THE PRESIDENCY

Article 22.- Powers of the Ministry of the Presidency. The Ministry of the Presidency has the following functions:

- 1) Preside and coordinate the National Council of Public-Private Partnerships.
- 2) Make the call to the meetings of the National Council of Public-Private Partnerships.
- 3) Invite other public entities to participate in the Council as deemed necessary, according to the technical specialty of the public-private partnerships to be evaluated.

- 4) Execute any other function that facilitates the application of this law and that is the responsibility of the Ministry of the Presidency, according to the law that creates said entity.

SECTION II THE ATTRIBUTIONS OF THE MINISTRY OF FINANCE

Article 23.- Powers of the Ministry of Finance. The Ministry of Finance will fulfill the following functions:

- 1) Evaluate the budgetary implications, firm or contingent, of each initiative, as well as its impact on public finances.
- 2) Evaluate the risk allocation and the macro-fiscal impact of each public-private partnership for the short, medium, and long term.
- 3) Identify the costs and fiscal risks of the initiative, and issue binding opinions for each one, prior to signing the contract.
- 4) Issue a technical opinion, duly substantiated, on the public financial commitments, firm or contingent, of each of the proposed initiatives, recommending: their approval, approval with adjustments, rejecting their approval, which will be incorporated into the consolidated report of the National Council of Public-Private Partnerships.
- 5) Recommend during the selection process the rejection of any initiative that has been presented as an initiative without the transfer of State resources, when it is identified that the initiative requires the transfer of State resources, firm or contingent, as provided in Article 31.
- 6) Evaluate and report for the implementation of the General State Budget Law for each year the total amount authorized to transfer for firm and contingent future payments of each project, in accordance with the provisions of the current public-private partnership contracts.
- 7) Include each year in the General State Budget Law the corresponding allocation of the necessary resources to meet the commitments and responsibilities of the contract administration.
- 8) Carry out and publish annually an evaluation of the firm and contingent liabilities derived from the current public-private partnership contracts.

- 9) Ensure that the net present value of the firm and contingent budgetary commitments contained in the public-private partnership contracts does not exceed the limits set forth in this law.
- 10) Advise the contracting authority on financing, tax and customs matters related to each public-private partnership.
- 11) Maintain a record of the operations and financial results of the public-private partnerships and of the projections of the State's resource commitments, firm and contingent, as established in the regulation or regulations of this law.

SECTION III

OF THE ATTRIBUTIONS OF THE MINISTRY OF ECONOMY, PLANNING AND DEVELOPMENT

Article 24.- Powers of the Ministry of Economy, Planning and Development. The Ministry of Economy, Planning and Development will comply with the following powers:

- 1) Evaluate the economic and social impact of each initiative for the entire useful life of public-private partnerships.
- 2) Evaluate the correspondence of each of the initiatives with the National Planning and Public Investment System.
- 3) Estimate the economic and social risks associated with each initiative, prior to the declaration of public interest of the initiative presented.
- 4) Issue a duly substantiated technical opinion on the economic and financial viability of each of the proposed initiatives, including the value for money analysis and recommending: its approval, approval with adjustments, rejecting its approval, which will be incorporated into the consolidated report of the Board National Public-Private Partnerships.
- 5) Evaluate the proposals of public-private non-profit partnerships according to what is established in the regulation or regulations of this law.

SECTION IV

OF THE ATTRIBUTIONS OF THE LEGAL CONSULTANCY OF THE EXECUTIVE BRANCH

Article 25.- Powers of the Legal Consultancy of the Executive Power. The Legal Consultancy of the Executive Power will evaluate if the acts of the National Council of Public-Private Partnerships are in accordance with the legal system.

SECTION V
OF THE ATTRIBUTIONS OF THE GENERAL DIRECTORATE OF PUBLIC PROCUREMENT

Article 26.- Powers of the General Directorate of Public Procurement. The General Directorate of Public Procurement will have the power to issue technical opinion regarding the design and structuring of said competitive processes.

SECTION VI
THE ATTRIBUTIONS OF THE CONTRACTING AUTHORITY

Article 27.- Powers of the contracting authority. The contracting authority will fulfill the following powers:

- 1) Evaluate the technical aspects related to the provision of the good or service of social interest, throughout the process of selection and evaluation of projects, contracts and awardees.
- 2) Ensure that the contract contains the appropriate quality standards for the provision of the good or service.
- 3) Sign, on behalf of the State, with the express authorization of the President of the Republic, the public-private partnership contracts.
- 4) Manage the contract during its useful life.
- 5) Review the quality of the provision of the good or service as established in the contract.
- 6) Coordinate with other entities or public or private entities the actions required for the fulfillment of the contract.
- 7) Arrange for evaluations of public-private partnership projects, in order to determine and establish whether the execution of the project is carried out in accordance with the agreed rules, terms and conditions.
- 8) Identify the situations of non-compliance, deficiencies in the processes and deviations in the execution of the projects, with respect to the provisions of the contract execution program and its complementary documents, the applicable legal regulations or the technical or operational manuals that regulate the subject matter of the public-private partnership contract.

- 9) Submit reports on evaluations and monitoring activities conducted and recommend to the parties, and particularly to the successful bidder, the measures and solutions to be adopted in case of identifying deficiencies, errors, deviations or needs for improvement in the procedures and actions undertaken for the implementation of the project.
- 10) Contract an audit in order to evaluate the quality of the services that are the object of public-private partnerships and submit the resulting report to the National Council of Public-Private Partnerships. The audit firm must be free of conflict of interest with the entities involved in the public-private partnership.
- 11) Perform any other function assigned by the National Council of Public-Private Partnerships.

SECTION VII OF THE ATTRIBUTIONS OF OTHER PUBLIC ENTITIES

Article 28.- Powers of other public entities. In the scope of application of this law, other public entities will participate in meetings and issue duly substantiated technical opinions, when the National Council of Public-Private Partnerships so requires via request of the Ministry of the Presidency or the General Directorate of Public-Private Partnerships.

CHAPTER IV OF THE MODALITIES AND CONDITIONS OF PUBLIC PRIVATE PARTNERSHIPS

SECTION I THE MODALITIES OF PUBLIC-PRIVATE PARTNERSHIPS

Article 29.- Types of public-private partnerships. Public-private partnerships can be:

- 1) **Public initiative:** Those that originate from public agents and may be with or without transfers of State resources.
- 2) **Private initiative:** Those that originate in private agents that propose to the Dominican State the creation of a public-private partnerships.

Article 30.- Instrument of incorporation of public-private partnerships. Every public-private partnership will be formed by signing a public-private partnership contract between the public

agent and the private agent awarded the project, in which the rights and obligations of each of the parties are stated.

Article 31.- Cases of approval by the National Congress of public-private partnership. In the cases in which the constitution of a public-private partnership entails, in a firm or contingent manner, the alienation of State assets, the affectation of national income, the performance of public credit operations or when it implies tax exemptions, the corresponding contract must be approved by the National Congress, as stipulated in the Constitution and the laws.

Paragraph I.- It is considered that there is alienation of State assets in cases where the constitution of a public-private partnership entails the transfer of property rights over State assets in a definitive manner, without these having to return to the State assets during the term of the contract or due to its termination.

Paragraph II.- A mortgage, pledge or real guarantee of any kind may only be established on State assets that have been transferred in favor of public-private partnerships.

Article 32.- Usufruct of State assets in public-private partnerships. The alienation of State property is not considered to be the case in which, for the conclusion or execution of public-private partnerships, the usufruct of State property is granted, without the transfer of property rights thereof.

Paragraph. - The usufruct granted will terminate by right because of the termination of the public-private partnership contract and the dissolution of the assets of the public-private partnership trust, if applicable. The transferred assets will be returned to the State once the usufruct has concluded.

Article 33.- Budget forecast. The head of the contracting authority must inform the Ministry of Finance, through the General Budget Office, the amount to be included each year in the budget line corresponding to the commitments derived, directly and indirectly, from public-private partnership contracts.

SECTION II THE CONDITIONS OF THE INITIATIVES OF PUBLIC-PRIVATE PARTNERSHIPS

Article 34.- General conditions for the presentation of an initiative. Public or private agents that present initiatives must do so before the General Directorate of Public-Private Partnerships, for which they must present the following documents:

- 1) Precise description of the situation to be resolved and the need for the good or service of public interest.

- 2) Description of the proposal to resolve the situation, with its proper technical and financial analysis.
- 3) Justification of the need for the provision or management of the good or service, which corresponds to the priorities established in the National Planning and Public Investment System and the national development policies and strategies established periodically by the Government.
- 4) Justification of the use of the mechanism of public-private partnership as the most appropriate modality for the execution of the initiative.
- 5) Identification and description of the minimum requirements for the execution of the initiative, as established in the regulation (s) of this law.
- 6) Identification of the financing mechanism and any possible requirement for the transfer of state resources, firm or contingent.
- 7) Preliminary risk analysis, mitigation mechanisms and their distribution.
- 8) Considerations on possible social and environmental impacts.
- 9) Pre-feasibility studies and documentary background available at the time of the initiative and that due to their nature or content are necessary for the evaluation of the relevance and convenience of the initiative.

Paragraph I.- Initiatives of public-private partnerships subject to the selection process must be supported mainly on current national or international official statistics, or statistics collected or raised during studies conducted by professionals recognized technical capacity.

Paragraph II.- The initiatives of public-private partnerships that arise from the private sector must be supported by market economic studies in order not to produce anti-competitive advantages in favor of the successful bidder, as stipulated in the General Law on the Defense of Competition.

Article 35.- Deadlines for the procedures. The terms of the different phases and actions included in the award process, from the presentation of initiatives to the signing of the public-private partnership contract, will be defined in the specifications of each competitive process, as stipulated in this law and in the regulation or regulations of this.

Article 36.- Guarantee in public-private partnership contracts. Private agents must offer guarantees that prove their financial capacity to present offers and develop the initiative.

Paragraph. - The following are accepted as guarantees: bank guarantees, letter of credits, guarantees at first request, fiduciary guarantees or other means established in a regulatory manner for such purposes, if these are irrevocable, unconditional, renewable, and valid until extinction of the contract.

Article 37.- Presentation of private initiatives. All private agents may present, at their own risk and expense, projects to be developed under the mechanism of public-private partnerships, assuming all the costs of presenting the initiative. Said initiatives will be considered grace requests and will not imply the existence of a right for the originator, nor a commitment on the part of the public sector.

Article 38.- Priority in private initiatives. The private initiatives presented on the same subject will be evaluated according to the order in which they are submitted, in accordance with the mechanisms and information requirements established in this law and in the regulation(s).

Paragraph. - Any private initiative that, when evaluated, is determined to be not in the public interest, may not be reconsidered as a private initiative until two years have elapsed from the date of the declaration.

CHAPTER V THE PROCEDURES FOR THE PRESENTATION AND SELECTION OF INITIATIVES OF PUBLIC-PRIVATE PARTNERSHIPS

SECTION I PUBLIC INITIATIVES

Article 39.- Procedures. The presentation, evaluation and selection of initiatives and awardees of public-private partnerships of public initiative will be carried out in the following five phases: presentation of initiatives, evaluation of initiatives, declaration of public interest, competitive process of selection of awardee and award of the contract of public-private partnership, which will be carried out according to the following procedures:

- 1) **Presentation of initiatives:** Public agents will submit to the National Council of Public-Private Partnerships, via the General Directorate of Public-Private Partnerships, the documents required for the consideration of the initiative, as established in article 34 of this law and its regulations. Since the General Directorate of Public-Private Partnerships verifies that the project contains all the documents required for its evaluation, it must make it public that the National Council of Public-Private Partnerships will initiate the evaluation of the initiative.

- 2) **Evaluation of initiatives:** The National Council of Public-Private Partnerships will evaluate the initiative in accordance with the provisions of the regulations.
- 3) **Declaration of public interest:** The National Council of Public-Private Partnerships will declare of public interest those initiatives that have been qualified as pertinent and convenient under the public-private partnership mechanism and will immediately publish said declaration, together with the technical documentation used in the evaluation of the initiative, according to the provisions and mechanisms established in the regulation or regulations of this law. In cases where it is determined that it is a non-profit public-private partnership, said determination will be indicated and based on the declaration of public interest.
- 4) **Competitive bidder selection process:** The National Council of Public-Private Partnerships will initiate the competitive process of selecting the successful bidder for those initiatives declared of public interest, by submitting and publishing a list of conditions that contains the procedures, deadlines, terms, criteria, the methodology and specific conditions for the evaluation and selection of the successful bidder, respecting the principles set forth in article 3 of this law. The tender specifications will determine the requirements in terms of the type and amount of the guarantees required of the bidders, the evaluation criteria of the technical proposals and the economic proposals, the availability or not of public resources, the preliminary draft of the contract and all other information required for the preparation of proposals by private agents. The selection process will be developed in the following three stages:
 - a) **Qualification of bidders:** The private agent who wishes to participate in the competitive bidder selection process must present the documentation required in the tender specifications to verify their technical and economic capacity for the public-private partnership, within the period determined by the specifications, which in no case may be less than forty-five (45) days after the call for participation to private agents is published; term that can be extended as long as the complexity of the object of the contract warrants it in accordance with the principle of reasonableness. This period may be extended up to twice the time initially established in the specifications by means of a reasoned act from the General Directorate of Public-Private Partnerships.
 - b) **Technical evaluation:** The qualified bidders may submit the technical and economic documentation within the term established in the tender specifications, which in no case will be less than ninety (90) days after the communication of the authorized bidders, term that can be extended if the complexity of the object of the contract warrants it in accordance with the principle of reasonableness. This period may be extended up to twice the time initially established in the specifications by means of a reasoned act from the General Directorate of Public-Private Partnerships. The National Council for Public-Private Partnerships will analyze the proposals and determine those that meet the requirements

described in the tender specifications; The result of the evaluation will be "meets" or "does not meet" the technical requirements.

- c) **Economic evaluation:** The economic proposal presented by the bidders who comply with the technical evaluation will be analyzed, for which the National Council of Public-Private Partnerships will select the most convenient economic proposal for the users of the good or service of social interest of the public-private partnership, at based on the evaluation criteria established in the regulations of this law and the specifications. The award certificate will be issued within a maximum period of thirty days after the financial proposals are received. The presentation of documents for the economic evaluation by the bidders will be made at the time of presenting the technical evaluation.
- 5) **Award of the public-private partnership contract:** Once the selection process has concluded, if a successful bidder has been found to meet the requirements and criteria established in the tender specifications, the contract will be signed between the successful bidder and the contracting authority.

Paragraph I.- If the public initiative is not declared of public interest, the National Council of Public-Private Partnerships will communicate the decision, and this may not be submitted under the private initiative scheme until a period of two years has elapsed, counted at from the communication.

Paragraph II.- The General Directorate of Public-Private Partnerships may request from the bidders, during the technical evaluation and before starting the economic evaluation, clarifications, rectifications due to errors of form or omissions, and the delivery of background information, to clarify and specify the technical proposal, to avoid that any of them is disqualified due to formal aspects in their technical evaluation, as established in the regulations.

Paragraph III.- The information made available by the State in any phase of the process of evaluation of initiative and selection of the successful bidder will not compromise its civil or criminal liability.

SECTION II THE PRIVATE INITIATIVE

Article 40.- Private initiative procedures. The presentation, evaluation and selection of initiatives and awardees of public-private partnerships of private initiative will be carried out in the following six phases: presentation of initiatives, evaluation of initiatives, declaration of public interest, expression of interest, competitive process of selection of awardee, award of the public-private partnership contract, according to the following procedures:

- 1) **Presentation of initiatives:** The private agents shall submit to the National Council of Public-Private Partnerships, via the General Directorate of Public-Private Partnerships, the documents required for the consideration of the initiative listed in article 34 of this law, in which they must identify the flows of public and private resources, firm and contingent, other non-budgetary public resources, the cost of the studies carried out and presented, as well as any government action required during the term of the public-private partnership, as established in this law and the regulations of the same. The consideration of the initiative is a request for grace, so it does not generate any right to the individual or obligation for the State. Since the General Directorate of Public-Private Partnerships verifies that the project can be presented by private initiative and that it contains all the documents required for its evaluation, it must make public that the National Council of Public-Private Partnerships will initiate the evaluation of the initiative.
- 2) **Evaluation of initiatives:** The National Council of Public-Private Partnerships, in coordination with the contracting authority, will evaluate said initiative in accordance with the provisions of the regulations, with the power to introduce counterproposals or modifications that it deems appropriate.
- 3) **Declaration of public interest:** The National Council of Public-Private Partnerships will declare of public interest that initiative that has been qualified as pertinent and convenient under the mechanism of public-private partnerships, according to the scheme established in the regulation or regulations of this law. In this phase, the National Council of Public-Private Partnerships may decide whether to continue with the project under the private initiative modality or whether to proceed with the project as a public initiative or through public contracting mechanisms, in accordance with the conditions most favorable to the public interest, a decision that must be motivated in said declaration. If it proceeds as a private initiative, it will recognize the private agent that presented it as a private originator. If it proceeds as a public initiative or as a public contract, it will compensate the private agent that made the proposal for the cost of the studies provided in the initiative presentation phase, as established in this law. In cases where it is determined that it is a non-profit public-private partnership, said determination will be indicated and based on the declaration of public interest.
- 4) **Expression of interest:** The National Council of Public-Private Partnerships will publish the private initiatives that are declared of public interest and that will continue to be qualified under the private initiative modality, including in said publication the call for private agents interested in participating in the competitive selection process as a successful bidder, they present a manifestation of interest and participate in the process of qualifying bidders, in accordance with the provisions of the tender specifications, which will include all the information required for the preparation of proposals by private agents; The deadline for the presentation of documents for the expression of interest and qualification of bidders will be established in the specifications, but in no case will it be

less than forty-five (45) days after being published the call for participation by private agents; term that may be extended whenever the complexity of the object of the contract warrants it, in accordance with the principle of reasonableness. This period may be extended up to twice the time initially established in the specifications, by means of a reasoned act from the General Directorate of Public-Private Partnerships. The participation of private agents, including the private originator, will be valid as soon as it presents a viable technical and economic proposal and if it complies with the technical and financial requirements established in the specifications for the qualification of bidders.

- 5) **Competitive bidder selection process:** In the event that there is at least one private agent other than the private originator that has submitted proposals in the expression of interest and has been qualified as a bidder, the National Council of Public-Private Partnerships will initiate the process competitive bidder selection procedure, as established in the specifications published in the expression of interest phase, in accordance with the principles set forth in article 3 of this law. The selection process will take place in the following two stages:
 - a) **Technical evaluation:** The technical documentation presented by the authorized bidders will be analyzed in accordance with the provisions of the tender specifications, for which the National Council of Public-Private Partnerships will determine the technical proposals that meet the requirements described in the tender specifications. The deadline for the submission of documents for technical evaluation by the bidders will be determined by the tender specifications, but in no case will it be less than ninety (90) days after the communication of the authorized bidders; term that can be extended if the complexity of the object of the contract warrants it in accordance with the principle of reasonableness. This period may be extended up to twice the time initially established in the specifications, by means of a reasoned act from the General Directorate of Public-Private Partnerships. The National Council for Public-Private Partnerships will analyze the proposals and determine those that meet the requirements described in the tender specifications; The result of the evaluation will be "meets" or "does not meet" the technical requirements.
 - b) **Economic evaluation:** The economic proposal presented by the bidders who satisfy the technical evaluation will be analyzed, for which the National Council of Public-Private Partnerships will select the most convenient economic proposal for the users of the good or service of social interest of the public-private partnership, at based on the evaluation criteria established in the regulations of this law and the specifications, and must issue the award certificate within a maximum period of thirty days after the economic proposals are received. The presentation of documents for the economic evaluation by the bidders will be made at the time of presenting the technical evaluation.

- 6) **Awarding of the public-private partnership contract:** Once the competitive process for selecting the successful bidder has been concluded for complying with the requirements and criteria established in the specifications, if the contract has been awarded, it will be signed by part of the successful tenderer and the contracting authority.

Paragraph I.- Only private initiatives may be submitted for goods and services of social interest from sectors that the State has determined to be of interest for the realization of public-private partnerships of private initiative through a resolution of the National Council of Public-Private Partnerships.

Paragraph II.- If the initiative presented does not contain the sufficient documentation or information required for its evaluation, it will be returned to the private agent as "incomplete" and will not be considered as evaluated or in the evaluation process.

Paragraph III.- If the initiative presented contains cost estimates of the studies that the General Directorate of Public-Private Partnerships understands that they do not correspond to these, it will return the referred initiative to the private agent as "incomplete" and it will not be considered as evaluated or in evaluation process.

Paragraph IV.- If the initiative is evaluated and is not declared of public interest, the General Directorate of Public-Private Partnerships will communicate the decision to the private agent and the public.

Paragraph V.- Any information made available by the State in any phase of the initiative evaluation process and selection of the successful bidder will not compromise its civil or criminal liability.

Paragraph VI. - If no private agent other than the private originator presents a manifestation of interest and is qualified as an offeror in the expression of interest phase, the private originator will go directly to the technical and economic evaluation, and in case of complying with the requirements of said evaluations, it will be declared the successful bidder without the need to carry out the competitive bidder selection process.

Paragraph VII.- The General Directorate of Public-Private Partnerships may request from the bidders, during the technical evaluation and before starting the economic evaluation, clarifications, rectifications due to errors of form or omissions, and the delivery of background information, in order to clarify and specify the technical proposal, to avoid that any of them are disqualified due to formal aspects in their technical evaluation.

Paragraph VIII.- In the economic evaluation stage, the private originator will have an advantage according to what is established in the regulation (s), never greater than 5% nor less than 2% in their favor. The exact percentage must be established in the specifications of each initiative.

Paragraph IX.- If in the phase of declaration of public interest, the National Council of Public-Private Partnerships decides to continue with the project under the modality of public initiative, the private originator, provided that it participates in the competitive bidder selection process, will receive an advantage in the economic evaluation never greater than 5% nor less than 2% in their favor, the exact percentage of which will be established in the specifications.

Paragraph X.- The advantage of the private originator in the economic evaluation stage may in no case imply an increase of more than 2% of the capital expenditure foreseen in the investment.

Paragraph XI.- Once the competitive selection process of the successful bidder has concluded, if the successful bidder is different from the private originator, the latter will be entitled to reimbursement of the costs of the studies carried out and presented during the presentation phase of the initiative, which must be covered in its entirety by the successful bidder. In no case will this reimbursement be greater than 2% of the capital expenditure foreseen in the investment.

Paragraph XII.- The private agent may demand the revocation of a similar initiative subsequently submitted by another private agent within the term provided in this law.

Article 41.- Impediments. The following persons may not participate as private agents, as subcontractors of private agents or as fiduciaries:

- 1) The authorities and officials of the Dominican State, whether of the central government, autonomous entities, decentralized entities, local governments, public companies, other powers of the State and constitutional bodies, as well as their relatives up to the second degree of consanguinity, or the fourth degree in the case of the technical committee participants.
- 2) The person who has acted as advisor or participated, directly or indirectly, in the evaluation in any of the phases of approval of the initiative or selection of the successful bidder, both as a State official, or as a subcontractor for such purposes.
- 3) The person who has been sued by the State and sentenced for breach of contract.
- 4) The person who is subject to a restructuring plan or to a judicial liquidation process, in accordance with Law No. 141-15, of August 7, 2015, on Restructuring and Liquidation of Companies and Business Individuals. It repeals articles 437 to 614 of the Commercial Code and Law 4582, of 1956, on the Declaration of Bankruptcy.
- 5) The legal person whose managers are under investigation, as defendants or serving a sentence for crimes of falsehood, crimes against property, bribery crimes, embezzlement of public funds, influence peddling, bribery, money laundering, terrorist financing,

prevarication, disclosure of secrets, use of privileged information, crimes against the public faith, crimes included in the international conventions to which the country is a signatory, or crimes against public finances, until a period equal to twice the sentence has elapsed.

Paragraph I.- For the officials contemplated in paragraphs 1 and 2 of this articles, the prohibition will be extended until twenty-four months after leaving office.

Paragraph II.- These prohibitions apply to those people who, for reasons of management, shareholding or in society, can be presumed to be a continuation or that derive, by transformation, merger, assignment or succession, or in any other way, of those included in one of the previous causes.

Article 42.- Non-eligibility of the private initiative. Those that are in one or more of the assumptions described below will be rejected as private initiatives:

- 1) Initiative that is like that presented by public or private agents that is under evaluation or selection process by the State.
- 2) Initiative that is like one that has been evaluated and not declared as being of public interest and that two years have not elapsed since its evaluation.
- 3) Initiative that is duly registered in the bank of projects of public-private partnerships or in the National Public Investment System and that the public sector is evaluating to be developed under public initiative or contracting. The regulations of the law will establish the mechanisms to carry out the necessary prior consultations in the project bank.

Paragraph. - It is understood as a similar initiative when its total or partial object coincides with that of another in terms of geographical area, destination, main activity, use of State property, and that its acceptance negatively affects the development of another.

Article 43.- Freedom of participation. In the competitive processes, any private agent, national or foreign, who meets the requirements established in the call and the specifications, may participate.

Article 44.- Joint participation. Two or more private agents may present an initiative and participate in the competitive process jointly, organized in the form of a consortium, in accordance with what is established in the call and in the specifications.

Paragraph. - In the event of being winners, they must constitute a legal entity, in the terms of article 50 of this law.

CHAPTER VI
NON-PROFIT PUBLIC-PRIVATE PARTNERSHIPS

Article 45.- Definition. Non-profit public-private partnerships are understood to be the linking of public law legal persons and international cooperation and development organizations, or local non-profit organizations, to carry out collaborative activities in the provision of goods or services of social interest, whose purpose is to promote the social development of the Dominican Republic, and from which the generation of any financial benefit is not recognized.

Article 46.- Characteristics. Non-profit public-private partnerships are characterized by the non-generation of economic and financial returns; if any, they must be reinvested in the achievement of the purposes that motivated the generation of the partnership.

Paragraph. - Non-profit public-private partnerships may be public or private initiative and may or may not involve the transfer of State resources, under the terms established by law and its regulations.

Article 47.- Participants. Only international cooperation and development organizations or local non-profit organizations that are registered in the National Registry of Nonprofit Organizations may participate in non-profit public-private partnerships.

Article 48.- Procedure. The provision, management, or operation of a good or service under the modality of non-profit public-private partnerships will follow the procedure of review, analysis, selection and contracting defined in this law for the evaluation of public or private initiatives in accordance with the specific terms established in the regulation(s).

Paragraph I.- If the National Council of Public-Private Partnerships declares a non-profit public-private partnership of public interest, it must specify that the initiative will be under this modality, therefore the provisions established for non-profit initiatives will be applied.

Paragraph II.- When non-profit public-private partnerships originate from an international organization or multilateral instance, regardless of whether or not they require the transfer of State resources, the selection procedure will respect the regulations, agreements and protocols that are applicable, for reasons treaty, agreement, or concerted action in which the Dominican State and its public entities are part of or have the status of obligated subject, including the rules relating to financial management and control monitoring instruments.

Article 49.- Restrictions. For the development of non-profit public-private partnerships, it should be avoided that they cause, jointly or separately, directly, or indirectly, the following effects:

- 1) The alteration of the competitive regime of productive market activities because of the granting or improper use of privileges, tax benefits or other similar advantages.

- 2) The translation of revenues, income or profits subject to others by sharing technical, contract or transfer pricing.
- 3) The allocation of human or financial resources to purposes other than those provided by the partnership.
- 4) Other restrictions that may be established in the regulations of the law.

Paragraph I.- The regulation of the law may incorporate other restrictions that are deemed necessary to guarantee the proper functioning and relationship between public and private sectors within the framework of public-private non-profit partnerships.

Paragraph II.- Projects that require the transfer of State resources of more than three million United States dollars (USD3,000,000.00) per year or fifteen million United States dollars (USD15,000,000.00) or its equivalent in Dominican pesos, in net present value during the useful life of the project will not be considered the object of public-private partnerships. This amount may be indexed each year from the inflation rate published by the Central Bank of the Dominican Republic.

CHAPTER VII

THE ADMINISTRATION AND FINANCING OF THE PUBLIC-PRIVATE PARTNERSHIPS

Article 50.- Exclusive corporate purpose of the successful bidder. The public-private partnership contract may only be entered into with legal persons whose corporate purpose is, exclusively, to carry out those activities necessary to execute the contract.

Paragraph I.- The corporate purpose may also include participation in the corresponding competitive process.

Paragraph II.- The specifications will indicate the minimum capital without the right to withdraw, statutory limitations and other requirements that said company must meet.

Article 51.- Public-private partnership trust. In the case of public-private partnerships that involve, in a firm or contingent way, the transfer of State resources, the public-private partnership contract will preferably provide for the constitution of a public-private partnerships trust, which manages the assets and rights contributed or manage any other aspect of the project, as agreed between the parties.

Paragraph I.- When public-private partnerships are made under the trust modality, it will have full and sufficient legal capacity to contract debts and grant guarantees on the assets that are part of its patrimony and its accessories, including the power to grant administrative subrogation

rights, rights of intervention in favor of its creditors or the State, as well as to issue and support public offering of securities issued by the trustee, charged to the trust assets, in accordance with the law and regulations in force on the matter.

Paragraph II.- By virtue of its private nature, the trust will not have the power or effect of establishing public debt, nor will the legal norms and procedures that govern the contracting, accounting and registration of public credits be applicable.

Paragraph III.- The public-private partnership contract will establish the minimum conditions that the trust must require.

Article 52.- Collection power. The successful bidder or the public-private partnership trust, as appropriate, will have the power to collect and claim directly from the users of the services provided, the corresponding rates or charges, in accordance with the terms and conditions provided in the contract.

Article 53.- Authorized sources of resources. The recognized sources of resources for the execution of public-private partnerships can be financial, fixed assets, or any other nature, as detailed below:

- 1) Assets, monetary or non-monetary, contributed by the private agent.
- 2) Public assets contributed by the public agent during the term of the contract and its addenda, whose ownership may or may not be transferred as established in the contract.
- 3) Liabilities issued for the financing of the public-private partnership, for which the public-private partnership contract may be used as guarantee or collateral.
- 4) Public offering securities issued through the stock market, for which the public-private partnership contract may be used as a guarantee or collateral.
- 5) Resources that respond to the management of the Dominican State necessary for the materialization of public-private partnerships, such as: rights of use, exploitation rights, permits, regulations, agreements, and specific conditions that are transferred to the autonomous heritage during the term of the contract.
- 6) Remuneration and collection from the economic activity of public-private partnerships.
- 7) Donations, non-reimbursable cooperation's, and any other contribution without any expectation of remuneration or consideration.

Article 54.- Contribution of budget commitments. At the beginning of each quarter, the State will contribute to the management trust of each current public-private partnerships, the amount corresponding to the firm commitments of the next three months, with the objective of complying with the obligations derived from the budgetary commitments acquired by the State through the signing of public-private partnership contracts.

Article 55.- Limits to budgetary commitments. The net present value of all the firm and contingent budgetary commitments of the public sector contained in the contracts of public-private partnerships, for all the years of their duration, may not exceed 3% of the official estimate of the gross domestic product of the economy of the year in which the contract is signed. This percentage will be reviewed every three years through the public sector budget law.

Paragraph I.- For the data on the Gross Domestic Product of the economy, the estimate of the Gross Domestic Product provided for in the general state budget will be used.

Paragraph II.- The calculation of the net present value will be carried out according to what is established in the regulations.

CHAPTER VIII OF THE RISKS

Article 56.- Definition of risks. In public-private partnerships, risks are understood to be those most relevant threat factors that may affect the normal fulfillment of the contract, the quality of the good or service of social interest that is the object of this, or the profitability of the project.

Paragraph. - These risks must be identified in the contract and assigned to the contractual party that can best manage, control, and administer them.

Article 57.- Classification of risks to be regulated. For the purposes of this law, the economic, social, political, institutional, and legal, operational, financial, nature, environmental, technological and specific risks to each partnership must be taken into account, as provided in the regulation.

Article 58.- Assessment and transfer of risks. All public-private partnerships require the transfer, partial or total, of the risks identified in article 57 of this law to the private agent, for which each contract must specify the characterization, identification mechanism, evaluation of the probability of occurrence, quantification for each one of the risks and its corresponding mitigation plan, according to the terms and conditions established by the regulation(s). The risks of force majeure will have a special treatment in the contract.

**CHAPTER IX
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Article 59.- Property on the studies of a private initiative. If the private initiative is not declared of public interest, the ownership of the studies will remain with the private agent.

Article 60.- Compensation for studies. For any private initiative, whether with or without the transfer of State resources, the private agent will be compensated for the cost of the studies carried out, in the following terms:

- 1) In the event that the State decides to develop on its own any private initiative that is declared of public interest, it will have the right to acquire the studies carried out, for which it must pay the cost of these to the private agent as established in the documentation delivered in the presentation phase of the initiative, which in no case will exceed 2% of the total value of the estimated capital expenditure for the investment.
- 2) In the event that the State reverses the declaration of non-public interest within the term provided in this law and carries out the project under the modality of public initiative or public procurement, the State will have the right to acquire the studies carried out, for which it must pay the cost of these to the private agent as established in the documentation delivered in the presentation phase of the initiative, which in no case may exceed 2% of the total value of the estimated capital expenditure for the investment.
- 3) In the event that the State considers that the studies carried out are of social interest, even when the initiative is not declared of public interest, the State will have the right to acquire the studies carried out, for which it must pay the cost of these to the private agent as established in the documentation delivered in the initiative presentation phase, which in no case may exceed 2% of the total value of the estimated capital expenditure for the investment.

**CHAPTER X
GENERAL ASPECTS OF THE CONTRACT**

Article 61.- Object of the contract. The public-private partnership contract will establish the terms and conditions that will regulate the provision, design, construction, financing, provision, management, operation, maintenance or total or partial administration of goods or services of social interest and it will establish an appropriate risk distribution between the public agent and the private agent in such a way that a significant part of the risks is transferred to the private agent, in exchange for remuneration that may consist of the collection of fees, rights, fees, transfers of State resources, availability payments or any other contractually foreseen modality,

and whose collection is linked to the performance established in the contract, which will remain under the monitoring and control of the contracting authority.

Article 62.- Contracting and competition regime for the signature. Public-private partnership contracts must be signed by the contracting authority and the successful bidder.

Article 63.- Minimum content of the contracts. The contract to be considered valid will contain the following mandatory clauses:

- 1) Name, identification data and legal capacity of the parties.
- 2) Personality of the legal representatives of the parties.
- 3) The object of the contract.
- 4) The rights and obligations of the parties.
- 5) The characteristics, specifications, technical standards, levels of performance and quality for the execution of the work and/or provision of services.
- 6) Financial model of the public-private partnership.
- 7) The rate and remuneration regime for the consideration of services associated with performance.
- 8) The scheme of distribution of benefits and profits between public agent and private agent.
- 9) The transfer of State resources required for the development of the contract.
- 10) The mention of the public and private assets to be transferred to the autonomous patrimony.
- 11) The terms and conditions of the intervention rights of public agents in the event of non-compliance with the provisions of the contract.
- 12) The risk matrix, including the risk distribution and transfer scheme between the parties, with total or partial transfer of risks to the private agent of those risks that it is better able to manage.
- 13) The risk treatment scheme due to unforeseeable circumstances or force majeure.

- 14) The term for the initiation and termination of the contract, the execution schedule of the public-private partnerships, the starting date for the provision of services.
- 15) The rights of use, exploitation rights, permits, regulations, agreements, and any other specific conditions required for the development of the project.
- 16) The sanctions regime and monetary penalties for eventual breaches of the contract initiation and termination deadlines, the execution schedule or the availability and quality conditions stipulated in the contract.
- 17) The external supervision scheme of the contract.
- 18) The cases of rescission and unilateral and early termination of the contract and its effects, as well as the terms and conditions to carry them out.
- 19) The conditions for the renegotiation of the contract and the limits to it.
- 20) The procedure for termination of the contract.
- 21) The procedures and mechanisms for dispute resolution.
- 22) The limitations to eventual addenda to the contract.
- 23) The conditions for subcontracting.
- 24) The reversion conditions at the end of the contract of all the goods that enter autonomous patrimony.
- 25) Circumstances under which the contract may be terminated.
- 26) The conditions of risk coverage through the constitution of guarantees.
- 27) Clauses that prohibit the transfer of State resources, in the case of contracts resulting from initiative processes without the transfer of State resources.
- 28) The other provisions that are established in correspondence with this law by regulation.

Article 64.- Termination of the contract for public-private partnerships. The contracts established for the formation and administration of a public-private partnership are perfected with the signature of the parties and are terminated for any of the following reasons:

- 1) By common agreement between the parties.

- 2) For the fulfillment of its object.
- 3) Due to the impossibility of executing its object.
- 4) By judicial or arbitration decision covered with an enforceable formula or dictated with a definitive and irrevocable character.
- 5) By the arrival of the agreed term, if there has been no extension or postponement of the event, term, or scheduled date.
- 6) For the reasons contemplated in this law and in the contract itself, depending on the nature of the good or service or the particularities of the object of the contract.

Article 65.- Financing of the management of public-private partnerships. From each signed contract, up to a maximum of 2% of the total amount of capital expenditure will be allocated to be transferred to the contracting authority, with the purpose of financing the administration of the public-private partnership contract and its supervision.

Paragraph. - The total amount will be divided into equal installments that will be paid annually during the term of the contract.

Article 66.- Financing of the Directorate. From each signed contract, a maximum of 0.5% of the total amount of capital expenditure will be allocated to be transferred to the General Directorate of Public-Private Partnerships, with the purpose of financing the activities of said entity. The total amount will be divided into equal installments that will be paid annually during the term of the contract.

Article 67.- Subcontractors. In public-private partnerships, the linking of subcontractors will be governed exclusively by this law and by private law.

Paragraph. - The successful bidder is always responsible for the fulfillment of the contract. You must ensure the quality of the service, assume the responsibility resulting from eventual faults, omissions, or negligence, including increased costs and delays in the delivery of the works, not being able to take precedence over the lack of a subcontracted third party to justify any breach of the signed contract.

Article 68.- Representative value of the participation. In public-private partnerships that involve the State's participation in the economic benefits resulting from the execution of the contract, the rights corresponding to the public agent, as well as its distribution mechanism, will be defined in the constitutive act of the public-private partnership trust, in accordance with the terms and conditions provided for the award.

Article 69.- Term of validity of the contracts. The term of validity of the public-private partnership contracts will be agreed according to the nature and purpose of the good or service to be contracted, without, in any case, exceeding forty years, within which term the successful bidder will seek to obtain the return of the investment that arises, whatever the origin of the initiative.

Paragraph I.- Each public-private partnership project must justify in financial and technical terms the term agreed in each contract.

Paragraph II.- The possibility of extensions of the terms agreed in a project of public-private partnerships must be foreseen in the specifications and in the original contract, together with the conditions for the extension request, and in no case may it exceed half the agreed time.

Article 70.- Variations to the original value of the contract. The possibility of variation in the value of public-private partnership contracts must be provided for in the original contract, together with the conditions for requesting the variation.

Paragraph. - The regulation or regulations of this law shall establish the capital expenditure valuation methodology.

Article 71.- Variation of the risk distribution scheme. Modifying the risk distribution scheme established in the original contract signed by the contracting authority and the successful bidder is prohibited.

Article 72.- Unilateral and early termination of contracts by the contracting authority. The contracts regulated by this law may be terminated early and unilaterally by the contracting authority, for the following reasons:

- 1) Breach of the obligations contracted by the successful bidder.
- 2) State of notorious insolvency of the contractor, unless the guarantees provided are improved or the existing ones are sufficient to guarantee the fulfillment of the contract.
- 3) As required by the public interest or national security, in both cases related to serious breaches that affect or endanger the delivery of public goods or services.
- 4) Due to unforeseen circumstances or force majeure that make it impossible to fulfill the contract, a circumstance that must be reliably demonstrated by the party that alleges it.
- 5) Omissions or falsehoods by the successful bidder in the submitted proposal.

- 6) By the power of the State of unilateral resolution, in which case it must compensate the successful bidder for the investment made and for the consequential damages suffered, as established in the contract. In any case, no compensation for loss of earnings will be applied, being excluded as compensation criteria.
- 7) The other causes established in this law or in the contract.

Article 73.- Minimum obligations of the contracting authority. The public-private partnership contract will establish the minimum obligations of the contracting authority regarding the administration and supervision of said contract, and will include, at least, the following obligations:

- 1) Ensure contractual stability and balance, as established in the public-private partnership contract.
- 2) Obtain the rights to the services.
- 3) Rescue the service due to causes of damage to public utility, as established in the public-private partnership contract.
- 4) Ensure that only the rates resulting from the contractual agreement are being charged for the provision of the service.
- 5) Supervise all stages of public-private partnerships execution quality, certified investment, operation compliance, compliance with service levels and performance standards, until the settlement of the contract.
- 6) Apply to the winner the fines or awards stipulated in the contract.

Article 74.- Minimum obligations of the successful bidder. The public-private partnership contract will establish the minimum obligations of the successful bidder regarding the execution of the provisions of the contract, and must include, at least, the following obligations:

- 1) Fulfill the functions contractually granted in accordance with the rules of public law, in terms of the relations it maintains with the contracting authority in charge of the administration of the contract and those linked to other entities of the public sector.
- 2) Maintain the economic regime of the contract, as established in the public-private partnership contract.

- 3) Comply with the terms established in the contract and with the conditions of availability, quality, and performance standards of the good or service of social interest established in the contract.
- 4) Deliver all the information in relation to the public-private partnership contract that is required by the State.

Paragraph I.- Regarding the rights and economic obligations with third party beneficiaries of the services, the successful bidder will be governed by the rules of common law.

Paragraph II.- The rate regime established in the contract, with its corresponding mechanism or possibility of readjustment, will be understood as the maximum rate regime, so the successful bidder may reduce the rates or charges to the user, but may not claim a reduction in rates to justify a decrease in the quality of the work or variations in the terms or conditions of the provision of the good or service.

Article 75.- Modification of contracts. Any modification of the public-private partnership contracts must be submitted to the approval of the National Council of Public-Private Partnerships, except for the cases expressly excluded in the regulation or regulations of this law.

Paragraph. - In the cases in which said modification entails, in a firm or contingent manner and without having been included in the original approved contract, the alienation of State assets, the affectation of national income, the carrying out of public credit operations or when it implies tax exemptions, the modification of the corresponding contract must be approved by the National Congress, as stipulated in the Constitution and the laws.

CHAPTER XI ON ALTERNATIVE DISPUTE RESOLUTION MECHANISMS

Article 76.- Mechanisms for dispute resolution. The dispute resolution mechanisms must be provided for in the contract.

Paragraph I.- The parties may agree on alternative dispute resolution mechanisms such as: renegotiation, conciliation, mediation, and arbitration, which are not limitative.

Paragraph II.- If a public-private partnership contract does not establish alternative dispute resolution mechanisms, it will be submitted to the contentious-administrative jurisdiction.

CHAPTER XII OF THE CLAIMS IN THE AWARD SELECTION PHASE

Article 77.- Claims mechanism in the selection phase of awardees for public-private partnership contracts. The interested parties may present before the National Council of Public-Private Partnerships the administrative appeals against the actionable acts issued within the framework of the competitive process for the selection of successful bidders, under the terms and deadlines established by Law No. 107-13, of 6 of August 2013, on the Rights of People in their Relationships with the Administration and Administrative Procedure and the regulation or regulations of this law.

CHAPTER XIII OF FISCAL TREATMENT

Article 78.- Temporary exemption from ITBIS. During the first five years, computed from the beginning of the execution of the project object of the public-private partnership, the successful bidder may choose to refund the Tax on the Transfer of Goods and Services (ITBIS), in the purchase or rental of equipment, materials and supplies directly related to the construction, repair or expansion of the goods and infrastructures that are the object of the public-private partnership contract, subject to compliance with the conditions and following the procedures established in the regulation or regulations of this law.

Article 79.- Regime of depreciation and accelerated amortization. The successful bidder may access an accelerated depreciation and amortization regime subject to compliance with the conditions and following the procedures established in the regulation or regulations of this law.

CHAPTER XIV INFRACTIONS AND PENALTIES

SECTION I INFRACTIONS

Article 80.- Classification of administrative offenses. The administrative infractions provided for in this law are classified, according to their severity, into minor, serious, and profoundly serious, which will be sanctioned as established in this law.

Article 81.- Minor administrative offenses. The following are minor administrative offenses:

- 1) Omit relevant data for the study of the offers, when it is shown that it was known, prior to issuing a written opinion on the matter.
- 2) By simple non-observance of the provisions contained in this law and in the regulations.

Article 82.- Serious administrative offenses. The following are serious administrative offenses:

- 1) Resign, without just cause, the award of a contract.
- 2) Failure, for reasons attributable to them, their contractual obligations for the execution of a project, a work, or a service, regardless of the award procedure.
- 3) Change, without authorization from the contracting authority, the composition, quality, and specialization of the personnel that they undertook to assign to the work or services in their offers.
- 4) Failure to comply with the start and development times of the work, provided for in the public-private partnership contract, unless justified by unforeseeable circumstances or force majeure.
- 5) Provide information to a bidder that puts him in an advantageous position over others.
- 6) Incur in a new infraction of those indicated in the previous article, within two years of having been imposed the sanction.

Article 83.- Profoundly serious administrative offenses. The following are serious administrative offenses:

- 1) Participate directly or indirectly in a selection process, or present private initiatives, despite being within the prohibition regime.
- 2) Offer gifts, commissions, or royalties to officials of public entities, directly or through an interposed person in relation to acts related to the procedure of evaluation of initiatives, selection, execution, or modification of the contract.
- 3) When they use staff from an institution that participates in the technical committee to prepare their proposals, paid or unpaid.
- 4) Present appeals for review or challenge based on false facts, with the sole objective of harming a specific awardee or the adjudication process in general.
- 5) Incur in an act of proven collusion in the presentation of your offer.

- 6) Gain advantage in the selection process by offering benefits of any kind, presenting false or adulterated documents, or employing coercive procedures.
- 7) Present private initiatives without the aim of developing them, but rather as a mechanism for generating economic income by obtaining their copyright.
- 8) Obtaining privileged information in an illegal way that places you at an advantage over other competitors in the selection process.
- 9) Recurrence of three serious offenses in a period of five years.

SECTION II THE SANCTIONS

Article 84.- Administrative sanctions. Without prejudice to the other civil, criminal, or administrative sanctions that apply, private agents who incur in the infractions mentioned in the preceding articles will receive the following sanctions:

- 1) For minor infringements: written warning and execution of guarantees.
- 2) For serious infractions: execution of the guarantees, penalties established in the specifications or in the contract, temporary disqualification from participating in competitive processes for selecting the successful bidder for public-private partnership contracts or for public procurement according to the severity of the foul and a fine of one thousand minimum wages in the public sector.
- 3) For profoundly serious infringements: Execution of the guarantees, penalties established in the specifications or in the contract, unilateral termination of the contract without responsibility for the contracting authority, permanent disqualification from participating in competitive bidder selection processes for contracts of public-private partnerships or for public contracting according to the seriousness of the offense, and a fine of three thousand minimum wages of the public sector.

SECTION III THE SANCTIONING POWER

Article 85.- Exercise of the sanctioning power. The sanctioning power of the administrative infractions typified in this law is exercised by:

- 1) General Directorate of Public-Private Partnerships, in the case of minor and serious infractions.
- 2) National Council of Public-Private Partnerships, at the suggestion of the General Directorate of Public-Private Partnerships, in the case of serious infractions.

SECTION IV APPEALS

Article 86.- Appeal for reconsideration. The appeal for reconsideration will be made before the body that imposed the sanction, with the formalities and deadlines established in Law No. 107-13, of August 6, 2013, on the Rights of People in their Relationships with the Administration and of Administrative Procedure.

Article 87.- Hierarchical appeal. The hierarchical appeal will be filed before the National Council of Public-Private Partnerships, in cases of sanctions imposed by the Executive Director, as established in Law No. 107-13, of August 6, 2013, on the Rights of People in their Relationships with the Administration and Administrative Procedure.

Article 88.- Contentious administrative appeal. The contentious Administrative appeal to the sanctions imposed will be made according to what is established in Law 13-07, of February 5, 2007, which creates the Contentious Tax and Administrative Court.

SECTION V RESPONSIBILITY OF OFFICIALS

Article 89.- Responsibility of officials. The official who participates in the processes of presentation of public initiatives, evaluation of initiatives, selection and administration of the contract, will be responsible for the damages caused by his negligence or intent to the public property, and will be subject to the sanctions contemplated in Law No. .4108, of January 16, 2008, on the Public Function and in its regulation(s).

Article 90.- Non-exclusive nature of administrative sanctions. The administrative sanctions referred to in this article shall be independent of the judicial actions of a civil or criminal nature that may arise from the commission of said acts or have been committed simultaneously.

**CHAPTER XV
GENERAL DISPOSITIONS**

Article 91.- Time limits. All the deadlines contemplated in this law are considered free deadlines. Consequently, in its calculation the day on which the term begins or the day on which the term ends will not be computed.

Article 92.- Special regime or inapplicability of ordinary regulations. Law No. 340-06, of August 18, 2006, on Purchases and Contracts of Goods, Services, Concessions and its regulations and provisions that emanate from it, will not be applicable to public-private partnership projects, except as that this law expressly indicates.

**CHAPTER XVI
FINAL DISPOSITIONS**

Article 93.- Regulation of the law. The Executive Power will dictate the execution and application regulations, or regulations provided for in this law in a period not exceeding six months from its entry into force.

Article 94.- Start-up of the General Directorate of Public-Private Partnerships. A term of twelve months is established from the date of entry into force of this law for the creation and operation of the General Directorate of Public-Private Partnerships. Until the General Directorate is formally established and in full operation, its functions will oversee the Ministry of the Presidency or whoever it delegates.

Article 95.- Management of projects in execution. The projects in execution at the time of entry into force of this law will be governed by the agreed contractual conditions and the terms of the law that gave rise to them.

Article 96.- Management of previous projects. The concessions, permits, licenses and authorizations of goods or services of social interest that were granted by the Dominican State prior to the date of entry into force of this law, will continue to be governed by the contract that gave rise to them or the current legal framework at the time of signing the contract.

Article 97.- Repeal. Articles 46, 47, 48, 49, 50, 57, 58, 59, 60, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63 and 64 of Law No. 340-06, of August 18, 2006, on Purchases and Contracts of Goods, Services, Works and Concessions and its regulations.

Article 98.- Deletion of term. Any reference to the concession terms or concessions contained in the articles that have not been repealed is hereby suppressed from Law No. 340-06, of August 18, 2006, on Purchases and Contracts of Goods, Services, Concessions and Works.

Article 99.- Entry into force. This law will enter into force as of the date of its promulgation and publication as established in the Constitution of the Republic and after the periods established in the Civil Code of the Dominican Republic have elapsed.

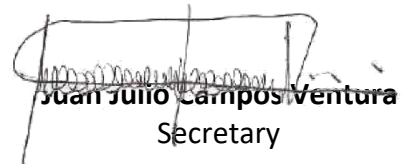
GIVEN in the Session Room of the Chamber of Representatives, Palace of the National Congress, in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the seven (7) day of February of the year two thousand twenty (2020); year 176 of the Independence and 157 of the Restoration.



Ivannia Rivera Núñez
Secretary



Radhanés Camacho Cuevas
President



Juan Julio Campos Ventura
Secretary

GIVEN in the Senate Session Room, Palace of the National Congress, in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the ten (10) day of February of the year two thousand and twenty (2020); years 176 of the Independence and 157 of the Restoration.



Edis Fernando Mateo Vásquez
Secretary



Reinaldo Pared Pérez
President



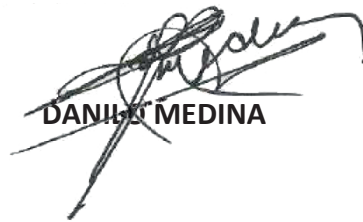
Luis René Canaán Rojas
Secretary

DANILO MEDINA
President of the Dominican Republic

In exercise of the powers conferred on me by article 128 of the Constitution of the Republic.

ENACT this Law and order that it be published in the Official Gazette, for its knowledge and execution.

GIVEN in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on the twentieth (20) day of February of the year two thousand and twenty (2020); year 176 of the Independence and 157 of the Restoration.



DANIEL MEDINA