

TRANSLATION 547/2016 - LAW N° 18786 - PUBLIC-PRIVATE PARTNERSHIP.- -----

CM/342.- *Legislative Power.- The Senate and the House of Representatives of the Republic of Uruguay, gathered together in a Joint Session, hereby decree:* -----

CHAPTER I - GENERAL PROVISIONS.-----

Article 1 (Object).- This Law establishes the legal framework applicable to Public-Private Partnership Contracts.- -----

Article 2 (Public-Private Partnership Contracts).- Public-Private Contracts are those in which the Government requests a private party, for a definite period, to design, build up and operate infrastructure or some of the above as well as their funding.- -----

Public-Private Partnership Contracts may only be entered into when, pursuant to this Law, there are not better alternative contracting modalities that may satisfy Public purposes.- -----

Article 3 (Scope of application).- This regulatory framework shall be mandatory for all Public-Private Partnership Contracts as set out by this Law.- -----

Under the limits established by the Constitution, such contracts may be entered into to develop infrastructure works in the following sectors: -----

A) Road, railway, port and airport works. Rural road works shall be included within Road Works.- -----

B) Energy Infrastructure Works, without prejudice of that established by Decree-Law N°14.694 of September 1, 1977 (National Power Law) and Law N°8.764 of October 15, 1931

(ANCAP creation).- -----

C) Works of waste disposal and treatment.- -----

D) Social infrastructure works, including prisons, health centers, educational centers, community housing, sport facilities and urban improvement, furnishing and development. -

These agreements may also be made for land settlements, which due to their location, surface and agricultural features may be economically appropriate for colony settlements, pursuant to Law N°11.029 of January 12, 1948 (Creation of National Board for Colonization), under the wording of Article 15 of Law N°18.187 of November 2, 2007. In particular, the agreements may include collective interest services as mentioned in Article 48 as well as the facilities referred by Article 52 of Law n°11.029 of January 1948.- -----

The Public-Private Partnership Contracts may never include: ---

I) Educational services when it concerns Educational Centers. -

II) Health services when it concerns Health Centers.- -----

III) Security, health and reeducation services when it concerns prisons.- -----

There are also excluded from this kind of agreements the operation of activities which must be exclusively rendered by the Government as well as the use and management of Government monopolies established by the Law.- -----

To the purposes of this law, the word "Government" shall include the Executive, Legislative and Judicial Branches, Court of Audit, Electoral Board, Court in Contentious Administrative Matters, Autonomous Government Entities,

Decentralized Services and Municipalities, without prejudice of the powers, rights and obligations that are attributed by the Constitution of the Republic and applicable laws and regulations.- -----

All other modalities of agreements provided by charters, laws or especial contracting procedures enacted to the date of passage of this Law remain in full force and effect.- -----

Article 4 (General principles and guidelines).- All acts and agreements made under the framework of this Law shall abide by the following general principles and guidelines: -----

A) Transparency and publicity: Any acts carried out under the framework of Public-Private Partnership projects, with the limitations provided in each case by the regulations in force, shall be public and subject to control mechanisms.- -----

B) Public interest protection: Any Public-Private Partnership project shall procure public benefits respecting the general interests and adopt the control mechanisms that shall be applied during the whole validity term of the agreement.- -----

C) Economic efficiency: Making agreements by the Government under the Public-Private Partnership project framework shall be based on the procurement of the Best Value for Money, including cost reduction and risk levels, as well as availability terms.- -----

D) Adequate risk distribution: The agreements made under the Public-Private Partnership project framework shall take into account an adequate risk distribution among the parties so that the related cost should be minimized.- -----

E) Transference: The agreements shall establish the modalities in which the works and goods and facilities needed for their operation may be handed back or transferred to the Government as appropriate.- -----

F) Impartiality: The selection of the contracting parties shall be performed observing transparency, fairness and non-discrimination guidelines, promoting the competence among the bidders and intending to reach an appropriate balance between the due diligence, procedure cost reduction and the selection of the best bid for the public interests.- -----

G) Temporality: All the agreements made shall have a maximum duration term. The maximum term of the agreement and its extensions shall not exceed thirty-five (35) years.- -----

H) Fiscal accountability: The expenses and financial obligations assumed under the Public-Private Partnership project framework shall be consistent with the Government's financial schedule, under a tax responsibility framework and due accountability.- -----

I) Control: The contracting Government entity shall establish adequate control mechanisms in the agreements to effectively protect the users' rights and the continuity and efficiency of the related services rendered.- -----

J) Sustainable development protection: The projects carried out under the Public-Private Partnership mechanisms shall tend to a sustainable development of the society and economy, thereby adopting protection measures for the environment in order to benefit present and future generations.- -----

K) Respect for the labor rights and legal provisions that govern it, in particular those that refer to the acknowledgement and respect for collective bargaining processes.- -----

Article 5 (Project development payments).- As a consideration for the activities undertaken, depending on the type and characteristics of each project, the contractor may receive different modalities of income, exclusively or combined, paid by the users or the contracting Government entity, among others.- -----

Depending on the project structure and characteristics, the Government may receive payments from the contractor, the users or others as may be established.- -----

Article 6 (Public contributions for the development of Public-Private Partnership projects).- According to the specific characteristics of each project and in order to make them viable, the contract may provide that the Government make contributions such as money payments, subvention grants, credits, project financial guarantees, guarantees for a minimum income and tax exemptions inter alia. Some of these contributions may need an Executive Order from the Government to be carried out.- -----

Under no circumstances may a minimum profitability level for the project be assured by the agreement. -----

The agreement shall determine the conditions to be met in order to make, modify or terminate the public contributions.- -

The financial support made by the Government may be carried

out when this means a stimulus for an efficient economic management and results in a benefit for the Government itself and the service users, in accordance with previous studies provided by Article 16 of this Law. -----

CHAPTER II - INSTITUTIONAL FRAMEWORK.- -----

Article 7 (Attribution of powers).- The contracting Government entity, under its jurisdiction, shall be responsible for the design, structuring and entering into of the Public-Private Partnership Contracts, as well as the control of their due execution and fulfillment of the obligations assumed by the contracting parties. This is without prejudice of the powers and competences of regulation and control that may correspond to other Government entities regarding their primary competencies and those attributed by this Law.- -----

Article 8 (Technical Committee).- For each project the contracting Government entity shall appoint a Technical Committee to advice at any stage of the contracting procedure. The Technical Committee shall be made up of a minimum of three and a maximum of five members. Two of them must be officials of the contracting Government entity. Their members must be eligible for the many features that compose the object of the agreement and at least one, who may or not belong to this entity, shall possess an acknowledged technical capacity on the matter of the agreement. -----

The members of the Technical Committees shall be bound to submit an affidavit pursuant to Law N°17.060 of December 23, 1998.- -----

Article 9 (Competences of the National Corporation for Development regarding Public-Private Partnership projects).- Notwithstanding the purposes provided by Law N°15.785 of December 4, 1985 and other amending and related provisions, the National Corporation for Development shall have the following tasks: -----

A) Development and promotion of Public-Private Partnership projects by applying the best technical criteria and the observance of the principles and orientations of this Law.- ---

B) Produce the technical guidelines applicable to the Public-Private Partnership projects by making procedures for the best recommended practices, procedure standardization and preparation of manuals, models and instruments that may contribute to the design and execution of such projects in the most efficient and effective manner. Their dissemination shall require the approval of the Ministry of Economy and Finance with a prior advising report from the Planning and Budget Office.- -----

C) Advising the identification, conceptualization, design, study, structuring, promotion, selection and hiring in Public-Private Partnership projects, under the terms and conditions that are agreed upon by an agreement with the contracting Government entities.- -----

D) To contribute to strengthen the contracting Government entities' capacities concerning the design and implementation of Public-Private Partnership projects.- -----

E) Advising the Executive branch of the Government to identify

and prioritize projects liable to be executed by the Public-Private Partnership system.- -----

F) Facilitate the contracting Government entities their inter-institutional activity coordination related to Public-Private Partnership projects.- -----

G) Create or acquire companies of any nature as well as any financial instruments when deemed necessary to improve the development of Public-Private Partnership projects.- -----

Article 10 (Project structuring).- To structure Public-Private Partnership projects, the contracting Government entity may directly hire the National Corporation for Development.- -----

Moreover, this Government entity may hire companies with renowned capacity in the matter for such purposes. The selection and hiring of such companies shall be made through the general administrative contracting procedure; the contracting mechanisms established hereby are not applicable in this case.- -----

Article 11 (Project implementation by the National Corporation for Development).- Upon the authorization duly justified by the Executive Branch, the contracting government entity may agree directly with the National Corporation for Development (CND) so that the latter integrally assumes the implementation of a Public-Private Partnership project with the purpose of making it viable and later on, transferring it to the Private Sector through the contracting procedures provided by this Law.- -----

This implementation modality may be only applied to such

projects that do not exceed the estimated investing amount to be established by the regulations. Additionally, the regulation shall establish the maximum terms during which the CND shall transfer the project to the Private Sector.- -----
In this respect, the CND may directly or indirectly execute the project by making contracts or commercial agreements of any nature pursuant to that established in Article 3 of this Law.- -----

Article 12 (Institutional Public-Private Partnership Contracts).- According to the scopes established by Article 11 of the Law N°15.785 of December 4, 1985, under the wording given in Article 34 of Law N°18.602 of September 21, 2009, the contracting Government entity may enter directly into contracts of Public-Private Partnerships with the National Corporation for Development (CND) in accordance with the procedures provided by Articles 15, 16, 17 and 18 of this Law. In case the CND in whole or in part assigns the above contract, it shall do it through any of the procedures provided by Articles 19 and 20 of this Law.- -----

Article 13 (Public-Private Partnership Project Unit).- Let the Project Unit of Public-Private Partnership be created, which shall directly report to the Ministry of Economy and Finances, and its purposes regarding the projects to be developed under this Law shall be as follows: -----

- A) Follow up the economic and financial aspects of the project.- -----
- B) Verify the compliance of budgetary goals.- -----

C) Assess related risks.- -----
D) Perform analysis and keep records assigned to the Ministry of Economy and Finance pursuant this Law.- -----
The regulations shall establish its constitution and specific tasks.- -----

Article 14 (Project Registry).- Let the Registry of Public-Private Partnership projects be created, whose organization is assigned to the Ministry of Economy and Finance. This shall include the contracts agreed to the development of Public-Private Partnership projects and their amendments; the calls for bids to award Public-Private Partnership projects; the private initiatives submitted for the development Public-Private Partnership projects, respecting the confidentiality rights that correspond to the owner of such an initiative; and the Public-Private Partnership project audit reports. The regulations shall establish the contents and formalities under which the Registry constitution and administration shall be made as well as the updating of its information among others.-

CHAPTER III - CONTRACT PROCEDURES.- -----

Article 15 (Start of the process).- The process to enter into a contract for the development of a Public-Private Partnership may be automatically started by a public initiative, otherwise it may be commenced by a private initiative presented by a proponent, in which case it shall follow the procedure provided by in Chapter VII of this Law.- -----
In both cases, these acts may be submitted to be recorded at the Project Registry as referred to in Article 14 of this

Law.- -----

Article 16 (Preliminary assessment).- Prior to the commencement of the contract procedures, the contracting Government entity shall have an assessment document that must indicate the feasibility and convenience of the above project.- -----

Depending on the characteristics of each project, the preliminary assessment may be separated in pre-feasibility studies, feasibility studies and impact evaluation.- -----

The assessment document shall include, among other items, a comparative analysis with alternative contracting ways that justify in technical, legal, economic and financial terms the reason for the choice of such contract. In particular, it must be shown that the contract model proposed is such as to allow the Country to obtain the "Best Value for Money".- -----

The regulations shall determine the scope, the manner and contents of such preliminary assessment, including, among others, technical, commercial, financial, legal, environmental and socio-economic impact items.- -----

Article 17 (Contents of the Contract).- Public-Private Partnership Contracts shall mandatorily include, and without prejudice of other necessary provisions or those agreed upon by the parties, the following: -----

A) Identification of the main activities that make up its purpose.- -----

B) Risk sharing conditions between the contracting party and contractor, discriminating and specifying the risk allocation

derived from the cost variation of such activities and the assignment of availability or demand risks for such activities, among others.- -----

C) Performance goals to be assigned to the contractor, especially regarding the quality of the services, works and supplies, and the conditions in which they shall be made available to the contracting Government entity.- -----

D) Remuneration for the contractor, which shall discriminate the bases and criteria for the computation of investment, operational and financial costs, and if needed, of the income that the contractor may obtain from the operation of the works or equipment.- -----

E) Causes and procedures to determine remuneration variations during the contract execution period and the applicable criteria regarding the balance of the economic-financial equation of the contract if applicable.- -----

F) Payment methods and, particularly, conditions under which, on each maturity or in a certain term, the amount of outstanding payments due by the contracting party and the amounts that the contractor must pay to the former as a consequence of penalties or fines, may be subject to compensation.- -----

G) A control system by the contracting Government entity applicable during the contract execution, especially concerning performance, as well as the conditions under which it is authorized to make assignments or subcontracts. The system operational costs must be considered in the general

- cost structure of the project.- -----
- H) Penalties applicable in case of non-compliance of the contract obligations.- -----
- I) Conditions in which an amendment of certain points of the contract can be made or its termination, pursuant to this Law.- -----
- J) Purpose and end use of the works and equipment as object of the contract at the termination thereof.- -----
- K) Guarantees that the contractor must encumber in order to fulfill his obligations.- -----
- L) Applicable mechanisms to the termination of the contract, including provisions on the alleged compensations arising from it.- -----
- M) A reference to the general conditions and, when applicable, to the especial ones that may be relevant regarding the nature of the main activities of the contract.- -----
- N) Other obligations of the contractor such as the submission of his financial statements audited within a term of six months as from the closing date of each Fiscal Year.- -----

Article 18 (Preliminary studies and contractual terms).- The preliminary assessment studies and contractual terms to which the preceding articles refer shall be presented before the Planning and Budget Office and the Ministry of Economy and Finance for its consideration and information, which shall be processed according to the terms and conditions established by the regulations.- -----

Both offices acting coordinately shall assess such studies and

contractual terms, taking into consideration the socio-economic impact of the project, budgetary issues, financial and economic feasibility and the benefits arising from the adoption of this contract modality.- -----

Additionally, the risk distribution characteristics between the contracting Government entity and the contractor shall be assessed, either at this stage or, by default, on defining the final contracting terms.- -----

Autonomous Government entities and Decentralized Services shall present these contractual terms through their related Ministry.- -----

In case of Government bodies included in Article 221 of the Constitution of the Republic, prior to the public call for bids as referred to in Article 19 of this Law, they shall send a copy of the contractual terms to the Executive Branch so that the latter informs the Congress (Legislative Power).- ----

The Municipalities opting for making Public-Private Partnerships shall adjust themselves to the proceedings regulated by this Law. The submission of the contractual terms shall be done through the Decentralization Sectorial Committee.- -----

Article 19 (Public call for bids).- Once the report referred to in Article 18 of this Law is obtained, the contracting Government entity may make a public call for bids, establishing the competitive proceedings to be used as well as the terms and conditions to be applied according to the regulations.- -----

The Government may use any competitive method, including biddings, auctions or any other as long as these were not in contradiction with the general principles admitted by the regulations in force.- -----

Article 20 (Procedure for a competitive dialogue).- The Government may apply a competitive dialogue procedure with the bidders that, on engaging in the bidding process, meet the requirements of technical expertise and solvency established therein.- -----

During the bidding process, all issued of the contract may be discussed in order to contribute to make more precise the Special Conditions of Contract in the bidding documents.- -----

During the proceedings, all participants shall receive an equitable treatment, and in particular, they shall not discriminately receive any information that may unfairly give them advantage over the rest of the bidders. The solutions proposed by any participant or any other confidential data shall not be disclosed to the others without his previous consent.- -----

The competitive dialogue proceedings shall continue until it is possible to determine, after comparing them if necessary, the solutions that may be adequate for the purpose of the bid.- -----

Upon the closure of the competitive dialogue and notifying all the participants, a call for the presentation of bids shall be made in accordance with the Special Conditions of Contract ----

In all cases where the competitive dialogue is applied, it

must be previously specified, when calling for a bid as referred to in Article 19 of this Law, that if once this dialogue is finished, only the participants to this dialogue may present their bids or if the call may be open for any interested party. In case that only one participant had taken part in the competitive dialogue proceeding, the presentation of bids must be open for any interested party.- -----

The Government may determine preferences or compensations for those participants to the competitive dialogue, communicating them in a public call for bids as referred to in Article 19 of this Law.- -----

Article 21 (Submission of the bids).- The bids shall include all the items required and necessary for the project execution. The regulations shall establish the conditions for the bid presentation, the documents required, formalities for bid opening, the possibility of making clarifications, rectifications or provisos, and the minutes that must be drawn up.- -----

Article 22 (Examination of the bids).- The examination criteria shall be stipulated in the related bidding documents, in accordance with the conditions established by the regulations. These criteria may include many items related to the object of the contract, such as quality, price, the formula to calculate the remunerations associated to the work use or service rendering, the execution or delivery terms, operation costs, financial conditions of benefits, satisfaction of social needs, profitability, value and

technical suitability of the proposal, technical and financial capacity of the bidder, guarantees, aesthetic or functional features as well as any other relevant item for the contract.-
In no circumstances may an offer be considered as the most convenient if it is deemed that it may not be met because of presenting anomalies in its figures or these are disproportionately abnormal.- -----

Article 23 (Awarding of the contract).- The Technical Committee shall classify the bids in descending order considering the different appraisal criteria.- -----

Upon receiving a report from the Public-Private Partnership Project Unit, the contracting Government entity, through the related bid authorizing officer, shall authorize an interim award by a justified resolution, which shall be served on all the bidders and shall set out all the final terms and conditions of the contract.- -----

The proceedings shall continue with the approval of the Court of Audit, which shall have thirty calendar days for its pronouncement as from the serving date of the notification file. Once this term is over without a pronouncement from the Court of Audit, it shall be deemed as an approval from the Court of Audit. Therefore the proceedings shall continue according to that stipulated in the following paragraphs.- ----

The final award may not be made until the expiry of a thirty working days period as from the serving of the interim bid award.- -----

Prior to the final bid award, the bidder shall submit all the

documentation postponed until this stage, and the bidder shall deposit a contract performance security if applicable.- -----
The final award shall be communicated to all bidders and the Court of Audit, pursuant to the regulations and registered in the Registry of Projects established in Article 14 of this Law.- -----

When a final bid award to the bidder who was awarded the interim bid award is not possible since this bidder does not meet the necessary conditions, the contracting Government entity may carry out a new interim award to the bidder or bidders that follow the former as per the order in which the offers have been classified, provided that this is possible and the new awardee agrees to it. The new interim award shall require a previous report from the Public-Private Partnership Project Unit.- -----

In any case, the contracting Government entity may reject all the bids without any responsibility whatsoever, thereby no payments or reimbursement shall be acknowledged as bidders' expenses.- -----

Article 24 (Formalization of the contract).- The contract shall be formalized within a term between ten and thirty working days as from the following day of the last final award notification, provided that no appeals against this act have been filed.- -----

In case administrative recourses against the final award have been filed, the contract shall be formalized in writing either in a thirty days term as from the moment in which the act has

become final or when the suspensive effects of the appeal have been lifted.- -----

When the contract has not been formalized during the above term due to the awardee, the contracting Government entity may revoke the award as well as seize the bid security that may have been deposited.- -----

CHAPTER IV - GUARANTEES.- -----

Article 25 (Guarantees).- The contracting Government entity shall require the deposit of a bid security until the interim award of the contract and a contract performance security, under the terms and conditions provided by the regulations as well as the bidding documents (General and Special Conditions of Contract).- -----

Article 26 (Bid security). - The bid security shall be kept until the contract performance security has been deposited or all the bids have been rejected. The bidders that unjustifiably withdraw their bids before the award shall lose the guarantee so deposited, which shall be seized by the contracting Government entity.- -----

The awardee may swap the amount of the bid security for the contract performance security or deposit a new one.- -----

The interim bid award may be void if the awardee does not deposit the contract performance security, without prejudice of the loss of the bid security previously deposited in favor of the contracting Government entity.- -----

Article 27 (Extension of the Contract Performance Security).-

In case there are penalties imposed on or compensations for

damages claimed to the awardee, this must replace or extend the guarantee with the corresponding amount, in a fifteen days term as from the enforcement of the guarantee, otherwise the bidder gives grounds for contract termination.- -----

When, as a consequence of a contract amendment, there occurs a price variation, the guarantee shall be readjusted in order that it keeps adequate to the newly modified price, within a term of fifteen days as from the date on which the contractor is notified about this change.- -----

Article 28 (Encumbrance of the deposited guarantees).- The contract performance security shall be liable as against the Government for the following: -----

A) The penalties imposed on the contractor.- -----

B) The right execution of the activities provided by in the contract, the expenses charged on the Government for the delay of the contractor on complying with his obligations, and damages incurred against the Government for the contract execution or its default.- -----

C) The seizure that may be decreed if the contract is terminated, or in accordance with it, the regulations or that established by the law.- -----

D) Other non-compliances referred to conditions expressly established in regulations, the Special Conditions of Contract in the bidding documents or the contract.- -----

Article 29 (Preference rights on enforcement of guarantees).-

In order to enforce a guarantee, the contracting Government entity shall have a preference right over any other creditor

no matter the nature thereof and the reason for that credit. If the guarantee were not enough to cover the liabilities to which it is encumbered, the contracting Government entity shall proceed to the collection of the difference in Court.--

Article 30 (Return and cancellation of guarantees).--

Guarantees shall not be returned or cancelled unless the guarantee term has expired and the contract was duly fulfilled, or unless the contract is terminated without reasons attributable to the contractor. In case there is a partial acceptance of the works/services, the contractor may only request the return or cancellation of a proportional part of the guarantee when it is so expressly authorized in the the bidding documents. In case there is an assignment of the contract, there shall be no returns or cancellations of the assignor's guarantees until the assignee's is deposited.-----

CHAPTER V - MEANS TO APPEAL.-----

Article 31 (Administrative recourses).--

The administrative acts performed by the contracting Government entity may be contested by means of administrative recourses under the terms and conditions established by the Constitution, the provisions included in this Law and other legal provisions ruling the matter as long as they do not contradict that established in this Law.-----

This administrative recourses, unless they are filed against the final bid award, shall not have a suspensive effect, except when the Government, on justified grounds, provides for the opposite.-----

The Government may provide for the lifting of the suspensive effects on the act that performs the final award when, on justified grounds, the Government pronounces that this suspension affects pressing service needs or causes serious damages.- -----

CHAPTER VI - CAPACITY AND IMPEDIMENTS TO ENTER INTO A CONTRACT.- -----

Article 32 (Capacity to enter into a contract).- Only natural or legal persons, whether Uruguayan or foreign, legally capable may enter into contracts with Government, who are not prohibited to enter into contracts and make proof of their financial, technical and professional capabilities in the terms and conditions required in each case.- -----

Article 33 (Prohibitions to enter into contracts with the Government).- Those included in the following situations may not be bidders or contractors, whether personally or by third parties:- -----

A) Not being capable or lacking authorization, or being prevented to act because of a prohibition, interdiction, disqualification or similar impediments concerning contractual, legal or arbitral issues or any other impediment to enter into contracts with the Government in general, or with the contracting Government entity in particular.- -----

B) Having acted as advisors hired by the contracting Government entity to implement the project in which they intend to participate as prospective bidders, provided that such participation may imply a privileged treatment over the

rest of prospective bidders.- -----

C) Being a Government official of the contracting Government entity or a Company in which the official is involved as a director, stakeholder or employee.- -----

D) Bankruptcy proceedings under way, or the bankruptcy had been declared as negligent by a Court decree.- -----

E) If there were a resolution for breach of contract against the bidder when contracting with the Government in general or the contracting Government entity, within the previous five calendar years, as from the last publication of a call for bidders as referred to by Article 19 of this Law.- -----

F) Having been penalized by committing serious violations of labor or environmental regulations, provided that such resolutions are final and were applied within twenty-four months prior to the public call for bids as referred to by Article 19 of this Law.- -----

The individuals involved in the preceding cases may not act as members of a consortium bidder or contractor or as a subcontractor, directly or by any other subsidiary or affiliated entity or forming an economic group with it.- -----

Additionally, the above prohibitions shall apply to individuals or companies that by means of being directors, stakeholders or any other circumstances, it may be presumed that they are an extension or derive from companies involved in one or more of the above enumerated grounds by way of transformation, merger, assignment or succession or any other form.- -----

CHAPTER VII - PRIVATE INITIATIVE.-----

Article 34 (Competence to undertake proceedings for private initiatives).- Let the Government entities be empowered to undertake and carry out private initiatives concerning Public-Private Partnership projects under their jurisdictions.-----

Article 35 (Proceedings for private initiative projects).- The private initiatives whose executions, according to the proponent, require the implementation of a Public-Private Partnership contract, shall be submitted to the National Corporation for Development, accompanied by the information about the project and its viability analyzed as prefeasibility.-----

The information received shall be technically assessed and sent to the competent Government entity, which shall resolve on its approval, modification or rejection, without any liability on that respect.-----

Article 36 (Stages in the private initiative proceedings).- Once the initial proposal has been accepted, with or without modifications, the proponent must produce and present a feasibility study of the project in accordance with the scopes of Article 16 of this law, within the terms set out by the regulations and pursuant to the requirements provided by the Government.-----

Once the report mentioned in Article 18 above, the contracting Government entity may call for bids as per Article 19 of this law and shall continue with the selection and contracting proceedings hereby established.-----

Article 37 (Proponent's rights).- The proponent of a private initiative is entitled to the following rights and preferences:- -----

A) Obtain, once performed the final award of the contract, the reimbursements of the approved costs related to the feasibility study, in case the proponent was not awarded the contract. Such costs shall be paid by the awardee, which must be mentioned in the public call for bids.- -----

B) Obtain up to a 10% advantage in the assessment of the proponent's offer compared to the best offer.- Furthermore, the proponent of the initiative shall not pay the bidding documents or any other specifications.- -----

In case the proponent, for any reason, does not carry out the feasibility studies within the terms established by the regulations, the Government may do it by its own or hire them in accordance with the relevant contracting procedures, the proponent losing any right to receive a consideration or benefit for such studies.- -----

Article 38 (Confidentiality of private initiative).- Any information related to the private initiative submitted shall be confidential. The initiative shall be transferred by force of law to the Government if the contracting Government entity decides to call for bids regarding that project. If such call would not be made, the proponent shall keep all the rights on the initiative for a two years periods.- -----

CHAPTER VIII - CONTRACT FULFILLMENT CONTROL.- -----

Article 39 (Competence of control).- The contracting

Government entity shall be competent to control the fulfillment of the contract, and it shall inform the Public-Private Partnership Project Unit every six months on the project advancements. Additionally, the contracting Government entity shall inform the above Unit about any relevant alteration or breach of contract within ten working days after the occurrence of such alteration or breach of contract.- -----

Without prejudice of the above mentioned reports, the Public-Private Partnership Project Unit may request from the contracting Government entity, any time and when deemed convenient, any information or documents related to the fulfillment of the contracts, as well as recommend hiring specific external audits to contribute to guarantee the due follow-up of the contracts.- -----

The regulations shall establish the scope, the form and contents of the reports, which shall include technical, commercial, environmental and financial aspects of the project among others.- -----

Article 40 (Areas under control).- The controls to be carried out by the contracting Government entity shall include all the technical, economic, financial, legal, operational, accounting and environmental aspects as the regulations and the contract may provide.- -----

Article 41 (Instruments to effect the control).- The contracting Government entity shall have ample control powers and may use different instruments for control such as requesting information, external audits, performance

evaluation, inspections and expert surveys. For that purpose, the contractor shall be bound to provide to the contracting Government entity, when requested, all the information and documents related to the fulfillment of the contract and the contractor may not oppose to it by reason of commercial secret.- -----

CHAPTER IX - PENALTIES.- -----

Article 42 (Penalties).- The contracts made to develop Public-Private Partnership projects shall establish the applicable penalties for any breach of contract or non-compliance of the object of the contact, as well as provide for aggravations or extenuations thereof. The penalties shall be graded based on the seriousness and repetition of the non-compliances, reaching up to the contract termination.- -----

Article 43 (General procedure to apply penalties).- The assessment of the applicable penalties shall be carried out under the principles of lawfulness, due process, equity, proportionality, generality and adequacy to the purpose.- -----

The application of these penalties shall proceed without prejudice of the administrative, civil or criminal liabilities that may correspond to the contractor regarding the contracting Government entity or third parties that may have been damaged by the breach of contract.- -----

The penalties imposed by the contracting Government entity shall be immediately effected, without prejudice of the legal actions that the contractor may be entitled to within a framework of dispute resolutions and remedies provided by the

law, the regulations or the contract, and independently from the compliance of an administrative resolution that may impose on the contractor a certain obligation to give, do or not do as provided by the regulations.- -----

Article 44 (Compensation for damages).- When the contract is terminated by the contractor's breach of contract, the contractor shall compensate the contracting Government entity for the damages caused. The compensation shall be effected, firstly, on the guarantees that may have been deposited, without prejudice of the contractor's remaining liabilities when the amount exceeds the seized guarantee.- -----

Article 45 (Restraining orders).- Once the penalty proceedings have been started up, the contracting Government entity may file a request to the Court for a restraining order so that the efficacy of the penalty may be assured without need of giving bond.- -----

Article 46 (Withholding rights).- The contracting Government entity may have withholding rights on the payments that may be effected by virtue of the contract, in order to collect the amounts due to penalties.- -----

CHAPTER X - AMENDMENTS AND ASSIGNMENTS OF THE CONTRACT.- -----

Article 47 (Amendments made by the Government).- The Public-Private Partnership contract may acknowledge powers to amend the contract to the contracting Government entity, on stipulating particular points of the contract to be amended, the considerations as the case may be, and the maximum additional investment amount that the amendments may require

and the term during which this power may be exercised.- -----
Once the above powers have been agreed to, the contracting Government entity -upon a report from the Planning and Budget Office of the Ministry of Economy and Finance and the opinion of the Court of Audit- may proceed to modify the characteristics or quantity of the hired works or services to improve or increase the service quality or technical standards established in the bidding documents and the contract, or for other reasons of public interest duly justified, without so affecting the essence of the contract. The contractor shall have the right to be compensated for the additional net costs that may be incurred in that respect.- -----

Furthermore, the maximum amount of the new investments or the expenses of the service needed for the modifications imposed pursuant to the above paragraph may not exceed 20% (twenty percent) of the work estimates or the operational costs as agreed to in the original contract.- -----

Article 48 (Amendments provided by in the contract).- The Public-Private Partnership contract may establish conditions that when met, the parties to the contract may agree to review the contract. They also may stipulate the points of the contract that can be reviewed and provide for solutions to be chosen on modifying the contract, the maximum additional investment amount that the modifications may require and the period in which the review may be agreed on.- -----

At any rate, the maximum amount of these new investments may not exceed 50% (fifty percent) of the work estimates or the

operation costs as per the original contract, and on construction stage such percentage may not exceed 30% (thirty percent).- -----

Article 49 (Renegotiation of contracts).- Without prejudice of the above, and even without those provisions, any party may request the other to renegotiate the Public-Private Partnership contract on occurring any of the following: -----

A) When the contracting Government entity modifies, for public interest reasons, the parameters for costs and benefits to be hired and that all the following requirements are met: -----

I) The modification must happen after entering into a contract and it could not be reasonably anticipated by the contractor on concluding the contract.- -----

II) The modification significantly alters the contract economic-financial equation when entering into the contract.- -

III) The modification must be relevant to the contract and may not be produced by measures intended to produce a financial effect within a general scope.- -----

B) When there are force-majeure causes that were not provided by in the conclusion of the contract and may directly cause a substantial breakdown of the economic-financial equation of the contract.- -----

C) When any of causes provided by in the contract as a condition for reviewing it pursuant to Article 48 of this Law, and the parties to the contract do not reach an agreement regarding the modifications of the contract.- -----

If any of the parties to the contract do not agree to the

renegotiation, or the parties do not reach an agreement, any of the parties may claim for compensation pursuant to Article 54 of this Law.- -----

Article 50 (Assignment and subcontracts).- The contractor may assign the Public-Private Partnership contract in part or in whole to a third party with a prior and expressed authorization from the contracting Government entity, which must verify that the assignee complies with the requisites and necessary conditions. The assignment may take place provided that the technical or personal capabilities of the assignor have not been the main reason for the award of the bid. Once the assignment is concluded, the assignor has transferred all the rights and obligations to the assignee.- -----

The contracting party may make subcontracts with third parties for the activities that remain under its responsibility, unless the contract or bidding documents provide for the opposite or that by their nature or conditions it can be inferred that must be directly carried out by the awardee. The regulations shall establish the requirements that must be met formally, substantially and by way of procedures.- -----

CHAPTER XI - TERMINATION OF THE CONTRACT AND DISPUTE RESOLUTION.- -----

Article 51 (Termination of the contract).- The Public-Private Partnership contracts shall be terminated for the following causes: -----

A) When the contract was fulfilled in accordance with the terms and conditions of the same and to the satisfaction of

the contracting Government entity regarding all the activities involved.- -----

B) Expiry of the term of the contract or its extensions.- -----

C) Unilateral and anticipated rescission by reason of breach of contract by the contractor.- -----

D) Redemption by the contracting Government entity, for public interest reasons, under the conditions provided by the regulations and the contract.- -----

E) Impossibility of contract fulfillment as a consequence of measures taken by the Government.

F) Impossibility of contract fulfillment as a consequence of the contractor's bankruptcy.- -----

G) Any other cause that may render the contractor incapable of performing the contract activities effectively.- -----

H) Breach of contract by the contractor as a consequence of a force majeure case or an act of God. If the force majeure case only affects the fulfillment of some obligations of the contract or of those related to part of the investment undertaken, and as long as that the rest of the contract obligations may be separately complied with, the parties must agree, pursuant to the bid call, on the adjustment of the legal, technical and financial conditions of the contract to adapt it to fulfill the remaining obligations. -----

I) Mutual agreement between the contracting Government entity and the contractor.- -----

J) In any other case expressly provided by in the contract.- --

Article 52 (Intervention by the contracting Government

entity).- If a unilateral and anticipated termination of the Public-Private Partnership contract were decided, or if the contractor would abandon the project, the contracting Government entity may run the construction or the operation of the facilities in order to assure an efficient and effective delivery of the service for as long as may be necessary.- -----
To that purpose, the contracting Government entity shall appoint a syndic that shall have ample powers to assure the fulfillment of the object of the contract. The syndic shall be liable in civil, criminal and administrative matters for negligent or willful acts or omissions that he may incur.- ----
The syndic may not be in charge for a period longer than twenty-four months. During this period, the Government must resolve if the activities that are the object of the contract must go on or be stopped. In case the activities must continue, the Government must make a new award as per Article 19 and following of this Law or by public auction as provided by in Article 58 or the Government itself should assume these activities by its own means and with legal forfeitures as the case may be.- -----

Article 53 (Anticipated termination of the contract).- In order to give time enough to perform new investments and proper service and maintenance, and with the purpose of assuring the continuity and quality of the services, the contractor and the contracting Government entity may agree on making a new public call for bids within a period no longer than five years before the termination of the contract. The

process must comply with formal, substantial and procedure requirements included in this Law pursuant to the regulations.- -----

If the contractor is not the awardee in the new call, the contract shall be terminated and shall have a compensation of the remaining term under the conditions that are determined by the regulations and the contract.- -----

Article 54 (Resolution of disputes).- In order to resolve disputes that may arise from the application, interpretation, execution, fulfillment and termination of the contracts entered into under this Law, the parties shall recur to arbitration. The arbiters shall be appointed by the parties upon common agreement, otherwise as per Article 480 of the General Code of Procedure and the arbiters shall decide according to law. The arbiters' award shall be final.- -----

CHAPTER XII - GUARANTEES TO BENEFIT THE CREDITORS AND OUT-OF-COURT CONTRACT AUCTION.- -----

Article 55 (Guarantees for the benefit of the creditors).- A Public-Private Partnership project contractor may pledge, for the benefit of the creditors, future fund flows to be produced by the project, as well as security trusts and any other kind of sureties or liens on the contractor's property and rights, whether present or future, pursuant to the regulations in force.- -----

Article 56 (Pledge of rights resulting from a Public-Private Partnership contract).- The Public-Private Partnership project contractor may enter into pledge contracts on the rights which

the contractor owns and arising from the Public-Private Partnership contract as well as the property used for its operation, only to guarantee the fulfillment of the contractors obligations related to project financiers, the contract operation and service, as well as those arising from a trust set up to that purpose.- -----

The contract shall be drawn on a deed or private document with notarized signatures, and it shall be ruled by the provisions of Law N°17.228 of January 7, 2000, about chattel mortgages regarding all matters not provided by this Law.- -----

The assertion of the right in rem shall require the notification to the contracting Government entity and its registration in the related Registry.- -----

Article 57 (Claim of the pledge).- The pledgee of a Public-Private Partnership contractor shall have the right to enforce the pledge, either because the guaranteed obligation has not been satisfied in whole or in part on its maturity or when the contract is terminated because of the contractor's breach of contract.- -----

In both cases the pledgee shall notify the contracting Government entity his will to enforce the pledge. When the enforcement was originated by contract termination by reason of breach of contract, this notification to enforce the pledge shall take place within the following ten days as from the notification to the creditor about the decision to terminate the contract.- -----

Article 58 (Out-of-Court pledge enforcement).- The enforcement

of the pledge granted by the contractor as per the above Articles shall be performed out of Court by the contracting Government entity through a public auction.- -----

To that purpose, the contracting Government entity shall publicly call for bidders to the auction pursuant to the regulations or in accordance with that established by the bidding documents or in the Public-Private Partnership contract. The Government shall authorize the bidder provided that the bidder complies with the requirements imposed on the bidders at the contractor selection procedure for such contract; if the Public-Private Partnership contract was partially fulfilled, it shall suffice that the bidder complies with the requirements related to the aspects of the contract that are still outstanding.- -----

The best bidder at the out-of-Court public auction shall replace the contractor until the contract term or its extensions were completed as prescribed by the law. The bidder shall assume the same rights and obligations as the initial contractor, either before the Government or the pledgee if there still were debts secured by the pledge.- -----

The proceeds of the auction, minus all its expenses, shall be allocated to the payment of the pledgee's credits. If there was a remainder, this shall be available for the initial contractor. In case there was a unpaid balance of the pledgee's credit, the winner of the auction shall also assume the obligation to pay it in the terms originally agreed on or in those agreed with the creditor.- -----

If there were no bidders authorized to participate at the out-of-Court auction for justified reasons, or if there were no acceptable offers, the pledgee may execute his rights against the debtor in Court according to law and the Government shall proceed pursuant to paragraph 3 of the above Article 52.- -----

CHAPTER XIII - MISCELLANEOUS.- -----

Article 59 (Expropriations).- Pursuant to that established in Article 32 of the Constitution of the Republic, it is hereby declared that expropriations of real property destined for Public-Private Partnership projects are a matter of public interest.- -----

It is hereby declared as matter of public interest and included in article 4° of Law N°3.958 of March 28, 1912 and amendments, real property destined to Public-Private Partnership projects as defined in Article 3° of this Law. This real property is therefore subject to expropriation.- ----

Article 60 (Accounting).- The accounting treatment of the obligations arising from a Public-Private Partnership contract shall depend on the existence of a significant trade risk transfer during the construction and operation phase, that is, when the payments in charge of the Government would depend on the availability and quality of the service or its demand, in accordance with the report made pursuant to Article 18 of this Law.- -----

When there is a risk transfer, the payments to the contractor for the investment made shall be included in the investment budget related to the fiscal year when the investment must be

made.- -----

Provided that the contracting Government entity is a Unit (Subsection) of the National Budget, the payments shall be included within the Investment Budget of Subsection 24 "Miscellaneous Credits" and an equivalent amount shall be deducted from the Investment credit of the contracting Subsection.- -----

In those cases where there is not a significant trade risk transfer during the construction and operation phase, the investment component shall be considered as a budget expense of the contracting Government entity as long as the investment is accrued and the differed payments charged on this entity shall be considered as liabilities.- -----

The General Accounting Office of the Nation shall keep liabilities and contingent liabilities records related to Public-Private Partnership contracts so that they can be easily identified and shall report during the approval of National Budget sessions the estimated amount of these liabilities discriminated from the Public Debt, as well as the investment executed for each Fiscal Year and Budget Subsection.- -----

Article 61 The Ministries and government offices, before which these private initiative proceedings are carried out under the Articles 19 and 20 of Law N°17.555 of September 18, 2002 in order to build infrastructure works pursuant to Article 3 of this Law, shall transfer such proceedings and their backgrounds to the National Corporation for Development,

within a fixed time limit of thirty calendar days as from this Law becomes in full force and effect.- -----

In case the Ministry or Government office should not act as indicated above, it shall be deemed that the private initiative has been rejected. -----

Article 62 (Top liabilities and contingent liabilities and top contractor payments).- Without prejudice of that established in Article 60 of this Law, as from January 2011 and as long as a new law is being passed, the total liabilities and contingent liabilities derived from Public-Private Partnership contracts, computed as Net Present Value, shall not exceed 7% (seven percent) of the Gross Domestic Product (GDP) of the previous year. Additionally, the annual payments with private contractors from Public-Private Partnership contracts shall not exceed 5% (five per thousand) of the GDP of the previous year. In order to comply with such limits, the project selection shall be carried out considering the value for money analysis and its contribution to the strategic guidelines from the Government's Executive Branch.- -----

In the case of the Municipalities, part of the approved funds may be engaged for each Municipality within the budget approved as per Article 214 of the Constitution of the Republic.- -----

In order to control such limits, the liabilities or contingent liabilities contracted in a currency different from the American dollar shall be valued at the selling interbank exchange rate effective at the close of business of the last

working day of the previous Fiscal Year for those liabilities contracted before that date, and at the selling interbank exchange rate effective on the moment of the contract if this has happened in the same fiscal year. The same criteria apply when it is about "Unidades Indexadas" (Indexed Units), according to the exchange rates defined by the Central Bank of Uruguay.- -----

The evolution of such limits as well as a summary of the contents of the registration provided by Article 14 of this Law shall be annually reported to the Congress in each Budget session.- -----

Article 63 This law shall become in full force and effect as from thirty days from its enactment and shall be applicable to contract proceedings in the framework of Public-Private Partnership projects started later than this date.- -----

This Law may be applied to the Public-Private Partnership projects that have been started up before this law has become in force, provided that all the requirements hereby prescribed are met.- -----

House of Representatives, Montevideo, July 12, 2011.- -----

/Signed/: Luis LACALLE POU - Chair -. /Signed/: José Pedro MONTERO - Secretary.- -----

President's Office - Republic of Uruguay.- -----

Ministry of the Interior - Ministry of Foreign Affairs -
Ministry of Economy and Finance - Ministry of Defense -
Ministry of Education and Culture - Ministry of Transportation
and Public Works - Ministry of Industry, Energy and Mining -

Ministry of Labor and Welfare - Ministry of Health - Ministry of Livestock, Agriculture and Fishing - Ministry of Tourism and Sport - Ministry of Housing, Use of Land and Environment - Ministry of Social Development.- -----

Montevideo, July 19, 2011.- -----

Let these presents be complied with, let its receipt be acknowledged, let these presents be communicated and published, and let the Law by which it is established the regulating framework for the Public-Private Partnership contracts to carry out infrastructure works and related services be registered in the National Registry of Laws and Decrees. -----

/Signed/: José MUJICA - President of the Republic.- -----

/There follow the signatures of the Ministers/.- -----

I, the undersigned Public Translator, state the foregoing -a copy of which is registered under N°547/2016 in my private file- to be a faithful and complete translation of the attached document /LAW N° 18786 - PUBLIC-PRIVATE PARTNERSHIP/, written in Spanish. Montevideo, May 18, 2016. -----