



A

LAW FOR

**A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE PUBLIC
PRIVATE PARTNERSHIP AGENCY AND OTHER MATTERS CONNECTED
THEREWITH 2023**

BE IT ENACTED by the Niger State House of Assembly of the Federal Republic of Nigeria and by the authority of same in the present State Assembly as follows:

PART I – CITATION AND COMMENCEMENT

Citation and
Commencement

1. This Law may be cited as the Niger State Public Private Partnership Agency Law, 2023 and shall come into force on 27th day of December, 2023.

Interpretation

2. In this Law unless the context otherwise requires –

"Agency" means the Niger State Public Private Partner-ship Agency established under Section 4 of this Law;

"Chairman" means the Chairman of the Governing Council of the Agency appointed under Section 5(2) of this Law;

"Concession" means the act of conceding of the right to conduct a business from within a larger concern;

"Contractor" means any person or body corporate who enter into a contract or has been granted a concession by any Niger State Government Ministry, Department, Agency, Corporation or Body and undertakes to construct any infrastructure or facility or supply any equipment or provision of any service for any infrastructure of facility under this Law;

"Construction" means any form of engineering work, whether civil, structural, mechanical or electrical and includes rehabilitation improvement, expansion, alteration and related works and activities, supply and installation of equipment or materials;

"Director General" means the Director General of the Agency appointed under Section 10 of this Law;

"Executive Governor" means the Executive Governor of Niger State of the Federal Republic of Nigeria;

"Infrastructure" includes development projects which, before the commencement of this Law, were financed, constructed, operated or maintained by the Niger State Government and which, after the commencement of this Law, may be wholly or partly implemented by the private sector under an agreement pursuant to this Law including Roads and Highways, power projects, water supply, irrigation, transportation systems, land reclamation projects, environmental remediation and cleanup projects, industrial estates or township development, housing, government buildings, tourism development projects, trade fair complexes, warehouses, solid waste management, information technology networks and database infrastructure, education infrastructure and development projects and public service provision as may be approved, from time to time, by the Governing Council;

"Investor" means an individual (corporate or otherwise) who has the financial strength and or technical knowledge and who has identified or bids in a partnership based agreement with the Niger State Government of Nigeria to carry development projects or provisions of public service;

"Member" means a member of the Governing Council of the Agency and includes the Chairman;

"NSDC" means Niger State Development Company Ltd;

"Partnership" means a joint mutually agreed contractual agreement between an investor or a consortium of investors with the Niger State Government through any of its Ministries, Departments, Agencies or Corporation for the purpose of infrastructure development, service provision or any other forms of development project within the boundaries of Niger State of Nigeria;

"Project" means any project, including but not limited to developing, financing, generating revenue from, designing, engineering, manufacturing, transporting, constructing, erecting, installing, commissioning, operating, maintaining, or decommissioning public infrastructure and/or the provision of a public service;

"Public Private Partnership" means a long-term contractual arrangement between one or more Contracting Authorities and a Private Partner for providing a public asset or service, in which the Private Partner bears significant risk and management responsibility and remuneration may be linked to performance. This includes but not limited to Concessions, BOT (Build-Operate-and transfer), or (DBFOM) Design, Build, Finance, Operate and Maintain and the derived forms;

"Sectoral Committee" means infrastructure Sector Committee, Commerce and Economic Sector Committee, Agriculture Sector Committee, Services Sector Committee, Environment Sector Committee, Health Sector Committee, and or Education Sector Committee;

"Governing Council" means the Governing Council of the Agency established under Section 15 of this Law;

"Unsolicited Proposal" means expression of interest by a body (individual or corporate) which was not called by Niger State Ministry, Department, Agency or any other segment;

"MDA" means Ministry, Department and Agency;

"NACCIMA" means National Association of Chambers of Commerce, Industry and Agriculture.

"State" means Niger State of Nigeria.

PART II - ESTABLISHMENT OF THE NIGER STATE PUBLIC PRIVATE PARTNERSHIP AGENCY (AND OTHER RELATED MATTEERS)

Establishment of the Agency

3. (1) There is established a body to be known as the Niger State Public Private Partnership Agency (in this Law referred to as ("The Agency").
- (2) The Agency:
- (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name; and
 - (c) may require, hold or dispose of any property, moveable or immovable for the purpose of carrying out any of its functions under this Law.
- (3) The headquarters of the agency shall be located in Minna, the capital of The State of the Federal Republic of Nigeria.

Objectives of the Agency

4. (1) The objectives of the Agency shall be to –
- (a) encourage participation of the private sector (local and international) in Projects and to promote investment in various strategic sectors of economic and social value;
 - (b) enable the Government to implement Projects efficiently and effectively throughout the Project

lifecycle, in a way which ensures that:

- (i) environmental, social, inclusive, sustainability, climate change and resilience matters are considered and appropriately monitored and addressed; and
 - (ii) fiscally responsible and sustainable policies are adopted and applied in accordance with public spending and investment management systems.
- (c) capitalize on the financial, administrative, organizational, innovative, technical, and technological capabilities and expertise of the private sector, to enable the public to benefit from quality and cost-efficient government infrastructure and services;
 - (d) maximize and monitor productivity, improve the quality of public services, and adopt efficient management practices to develop and monitor such services;
 - (e) transfer knowledge and skills from the private sector to the public sector, and train and qualify employees of Contracting Authorities and related Government Entities to manage and operate Projects;
 - (f) transform and complement Government approach in providing and managing certain infrastructure and public services so that the most effective model can be selected, and focus placed on a whole lifecycle approach to project management using approved policies and quality controls to deliver increased accountability for the delivery and long-term management of public assets;
 - (g) promote the competitiveness of Projects in local,

regional, and international markets; and

- (h) ensuring the most effective model/method is selected for PPP and concession agreements.

(2) The Functions of the Agency shall be to:

- (a) coordinate all PPP transactions and activities in The State;
- (b) regulate, monitor and evaluate compliance with the terms and conditions of such agreement;
- (c) report progress and anomalies identified from (b) above to the Governing Council with appropriate recommendations within five (5) working days;
- (d) ensure that copies of concession or partnership agreement to be retained in the Agency and relevant MDAs for reference and safe keeping purposes;
- (e) ensure efficient execution of any concession agreement or contract entered into by the government;
- (f) ensure compliance with the provisions of this Law and other relevant Laws;
- (g) perform such other duties as may be directed by the Executive Governor, from time to time, or as are necessary or expedient to ensure the efficient performance of the functions of the Agency under this Law.

Establishment of
the Governing
Council

5. (1) There is established for the Agency a Governing Council (in this Law, referred to as "Governing Council") which shall have overall control of the process.

- (2) The Governing Council shall consist of:
- (a) Deputy Governor (Chairman);
 - (b) Secretary to the State Government; (Vice-Chairman);
 - (c) Representative of the Ministry of Finance not below the rank of a Director (Member);
 - (d) Representative of Ministry of Justice not below the rank of a Director (Member);
 - (e) Representative of Ministry for Local Government not below the rank of a Director (Member);
 - (f) Representative of Niger State Planning Commission not below the rank of a Director (Member);
 - (g) Accountant General of the State (Member);
 - (h) Managing Director Niger State Development Company (NSDC) (Member);
 - (i) Director General Industrial Parks (Member);
 - (j) Director General, Industrial Parks (Member);
 - (k) Director General Debt Management Office (Member);
 - (l) Director General Public Procurement Board (Member);
 - (m) President, NACCIMA (Member);
 - (n) Representative of Bankers Committee (Member);

- (o) Representative of Nigeria Bar Association (NBA) (Member);
- (p) Representative of Nigeria Labour Congress (NLC) (Member);
- (q) 2 Representatives of National Council for Women Societies (NCWS) (Members);
- (r) Representative of Community Action for Popular Participation (CAPP) (Member);
- (s) Director General of the Agency (Member); and
- (t) Legal Adviser of the Agency (Secretary).

(3) The supplementary provision set out in the Schedule to this Law shall have effect with respect to the proceedings of the Governing Council and other matters.

Tenure of members
of Governing
Council

6. The Chairman and members of the Governing Council (other than ex-officio members) shall each hold office:
- (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years; and
 - (b) on such terms and conditions as may be specified in their letters of appointment.

Cessation of
membership of the
Governing Council

7. (1) Notwithstanding the provisions of Section 5 of this Law, a member of the Governing Council shall cease to hold office as a member of the Governing Council if:
- (a) he resigns his appointment as a member of the Governing Council by notice, under his hand, addressed to the Executive Governor of State;
 - (b) he becomes of unsound mind;

- (c) he becomes bankrupt or make a compromise with his creditors;
- (d) he is convicted of a felony or of any offence involving dishonesty or corruption;
- (e) he becomes incapable of carrying out the functions of his office either arising from an infirmity of mind or body; or
- (f) the Executive Governor of The State is satisfied that it is not in the interest of the Agency or in the interest of the public for the person to continue in office and the Governor removes him from office.

(2) Where a vacancy occurs in the membership of the Governing Council, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest as his predecessor.

Remuneration of members of the Governing Council

8. The Chairman and members of the Governing Council shall approve such emoluments, allowances and benefits as may be paid to the staff and other worker of the Agency.

PART III - FUNCTIONS AND POWERS OF THE GOVERNING COUNCIL

Functions and powers of the Governing Council

9. (1) The functions of the Governing Council shall be to:
- (a) appraise and recommend to the Agency Projects Proposed for concession;

- (b) take custody of every concession agreement made under this Law and monitor compliance with the terms and conditions of such agreement;
 - (c) ensure efficient execution of any concession agreement or contract entered into by the government;
 - (d) ensure compliance with the provision of this Law; and
 - (e) perform such other duties as may be directed by the Executive Governor from time to time and as necessary or expected to ensure the efficient performance of the functions of the Agency under this Law.
- (2) The Powers of the Governing Council shall be to:
- (a) provide the general policy guideline relating to the functions of the Agency;
 - (b) manage and superintend the policies of the Agency;
 - (c) subject to the provisions of this Law, make alter and revoke rules and regulations for carrying on the functions of the Agency;
 - (d) determine the terms and conditions of service of the employees of the Agency on the recommendation of the State Civil Service Commission;

- (e) fix the remunerations, allowances and benefits of the staff and employees of the Agency subject to the prevailing conditions of service in the State Civil Service; and
- (f) do such other things which in its opinion are necessary to ensure the efficient performance of the functions of the Agency under this Law.

PART IV - STAFF OF THE AGENCY

Appointment,
qualification,
tenure and removal
of the Director
General

10. (1) There shall be for the Agency, a Director General who shall:
- (a) be a person of proven integrity and relevant qualification with not less than 15 years working experience.
 - (b) be appointed by the Governing Council subject to the approval of the Governor;
 - (c) be the Chief Executive and Accounting Officer of the Agency; and
 - (d) be responsible for the execution of the policy and day to day administration of the Agency.
- (2) The Director General shall hold office:
- (a) for a term of 4 years in the first instance and may be reappointed for a further term of 4 years; and
 - (b) on such terms and conditions as may be specified in his letter of appointment; and

(c) the Director General shall possess a minimum qualification of a Master Degree in a relevant field with 3 years requisite experience in PPP and shall also be of proven integrity.

(3) Notwithstanding the provisions of subsection (2) of this Section, the Director General may:

(a) resign his appointment by a notice in writing under his hand, addressed to the Executive Governor of The State through the Governing Council; or

(b) be removed by the Executive Governor for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause); or for misconduct or corruption.

Appointment,
qualification,
tenure and removal
of the
Secretary/Legal
Adviser

11. (1) There shall be appointed for the Agency a Secretary/Legal Adviser who shall be a legal practitioner with 10 years post call experience from the Attorney General's Chambers and who shall be responsible to the Director General in the discharge of his functions.

(2) The Secretary shall serve as the Secretary to the Governing Council and be responsible for the conduct of the correspondence of the Governing Council, keep proper records of proceedings, ensure compliance with any statutory enactments and perform other duties as may be assigned to him by the Governing Council.

(3) The Agency may, recommend the appointment of other staff of the Governing Council, appoint such other staff as it may deem necessary an expedient, from time to time and subject to Civil Service Rules:-

- (a) for the proper and efficient performance of the functions of the Agency; and
- (b) on such terms and conditions as may be determined; from time to time; by the Governing Council.

- Pension provision
12. (1) The Agency shall be approved for the purpose of the Pensions Law, and accordingly, officers and employees of the Agency shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Pensions Law.
- (2) Without prejudice to the provisions of subsection (1) of this section, nothing in this Law shall prevent the appointment of a person to any office on terms and conditions which preclude the grant of pension, gratuity or other retirement benefits in respect of that office.
- (3) For the purpose of the application of the provisions of the Pension Act, any power exercisable by the State Government or its Ministries, Departments or Agency and its appointed or elected officials, other than the power to make regulations, under section 23 thereof, is hereby vested in and shall be exercisable by the Governing Council and not by any other person or authority.

PART V - FINANCIAL PROVISIONS

- Project Development Fund
13. (1) The Agency shall establish and maintain a fund to be known as the Project Development Fund (PDF).
- (2) The PDF shall include:
- (a) Grants from the State Government;
 - (b) All subvention and budgetary allocations from the State Government;

- (c) Gifts, loans, grant-in-aid from National, bilateral and multilateral organizations and agencies;
- (d) Rents, fees and other internally generated revenues from the services provided by the Agency; and
- (e) All other sums accruing to the Agency, from time to time.

(3) The PDF shall be applied in defraying the expenses of the Agency and other up-front expenses relating to preparation of PPP Projects including but not limited to:

- (a) feasibility studies;
- (b) project design;
- (c) market strategies; and
- (d) structuring and tendering.

Expenditure of the Agency

14. The Agency may, from time to time, apply the proceeds of the fund established under section 13 of this Law:-

- (a) to the cost of administration of the Agency;
- (b) to the payment of the emoluments, allowances and benefits of members of the Governing Council and for reimbursing members of the Governing Council or of any committee set up by the Governing Council and for such expenses as may be expressly authorized by the Governing Council;
- (c) to the payment of the salaries, fees or other remuneration or allowances, gratuities and

pensions, and other benefits payable to the staff and other employees of the Agency, so how-ever that no payment of any kind under this paragraph (except such as may be expressly authorized by the Governing Council) shall be made to any person who is in receipt of emolument from the State Government;

- (d) for the development and maintenance of any property vested in or owned by the Agency;
- (e) for maintaining general financial services subject to general or specific directives that may be given in that behalf by the Executive Governor in accordance with the provisions of this Law; and
- (f) for and in connection with all or any of its functions under this Law.

Annual estimate
and Accounts

15. (1) The Agency shall, not later than 30th September in each year, submit to the Executive Governor of The State an estimate of its expenditure and income.(including payments to the Agency Fund) for the next succeeding year.

(2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year by auditors appointed from the lists and in accordance with the guidelines supplied by the Auditor-General of The State.

Annual Report

16. (1) The Agency shall prepare and submit to the Executive Governor not later than 30th June in each year a report in such form as the Governor may direct on the activities of the Agency during the immediate preceding year, and shall include in the report a copy of the audited accounts of the Agency for that year and of the auditor's report thereon.

(2) The Auditor-General of The State shall lay a copy of the report and the Auditors report thereon before the State House of Assembly so soon after the receipt thereof.

Power to accept gifts

17. (1) The Agency may accept gift of land, money or other property on such terms and conditions, deemed lawful.
- (2) The Agency shall not accept any gift if the conditions attached by the person or organization making the gift are inconsistent with the functions of the agency under this Law.

PART VI - PRIVATE SECTOR

PARTICIPATION IN NIGER STATE PPP

Mandatory compliance with the Law in PPP Contracts

18. (1) As from the commencement of this Law, any State Government Ministry, Department, Agency, Corporation, Local Government or body involved in the financing, design, construction, operation, development and or maintenance of infrastructure or socio-economic development project, by whatever name called, may enter into a contract with, or partner with, or grant concession to any suitably qualified private firm or consortium in the private sector for the financing, construction, operation and or maintenance of any infrastructure that is financially viable or any development facility of the State Government in accordance with the provisions of this Law.
- (2) This Law applies to investment and development projects relating to any infrastructure of any State Government Ministry, Department, Agency, Corporation, Local Government or body.

19. (1) Every State Government Ministry, Agency, Department, Corporation, Local Government or body shall prioritize its infrastructure and socio-economic development projects and such priority projects may be qualified for concession or any kind of partnership under this Section.

(2) The projects mentioned in Subsection (1) of this Section shall be submitted to the State Executive Council for approval on the recommendation of the State PPP Governing Council based on the submission of the relevant sector, Ministry, Department or Agency prior to entering into any contract under Section 18 of this Law.

(3) In entering into any contract or partnership or granting any concession under Section 18 of this Law, the State Government Ministry, Agency, Department, Corporation, Local Government Council or body shall ensure that the project's private promoter possesses the financial capacity, relevant expertise and experience in undertaking such infrastructure and socio-economic project development or maintenance.

(4) The Agency established under Section 3 of this Law shall publish, in the State Government Gazette, one Local newspaper and at least two National newspapers having wide circulation in Nigeria and such other means of circulation, the list of projects eligible for contract or partnership for the financing, construction, operation, maintenance or development infrastructure and socio-economic development under this Law.

(5) A Agency shall carry out projects fully within the specified sectors which shall include but not limited to the following:-

- (a) Infrastructural Sector: Housing, Transport, Water, Power etc.
- (b) Commerce and Economic Sector: Investment, Trading, Industrial development etc.
- (c) Agricultural Sector: Farming and Agro allied procession, land issue.
- (d) Service Sector: Tourism and Hospitality industry.
- (e) Environment Sector: Conservation, Sanitation, Waste Management etc.
- (f) Health Sector: Pharmaceutical, Hospital Building, Equipment and Management.
- (g) Education Sector: School building management and linkages.

Special support to
PPP Projects

20. (1) The Agency shall where applicable provide necessary support to PPP Projects through:
- (a) provision of land or any property needed by a Project;
 - (b) waiving of fees, cost, tax or other payments due to the State;
 - (c) provision of indemnity against revenue shortfall and cost overruns;
 - (d) provision of loan guarantees; and
 - (e) provision of viability gap funding.
- (2) The provision of support in subsection shall be subject to conditions as may be set by the Agency from time to time.

Guarantee on
Concession
Agreement

21. No State Government Ministry, Agency, Department, Corporation, Local Government Council or body shall give any guarantee, letter of Guarantee or comfort or undertaking in respect of any concession, partnership and contractual agreement made pursuant to this Law, except with the approval of the Niger State Executive Council on advice of the Public Private Partnership Agency established under section 4 of this Law.

Invitation of
competitive public
bidding for Projects
and Contracts

22. (1) Upon an approval by the Governing Council for any project or contract for financing, design construction, operation or maintenance of any infrastructure or development project under this Law, the State Government Ministry, Agency, Corporation, Local Government Council or body concerned shall, by publication in at least one local newspaper and two national newspaper having wide circulation in Nigeria, and such other means of circulation, invite open competitive public bid for such project or contract approved under this Law.

(2) With respect to projects under this Law, the partnership shall be established with the bidder who, having satisfied the pre-qualification criteria, submits the most technically and economically comprehensive bid that is the bid that offers the best value for money against the criteria set out in advance by the producing authority and favourable/moderate financial consideration within the rules and regulations of Public Procurement Law.

(3) Where a consortium participation in a bid under this Section, there shall be proof by the consortium that all its

members shall be bound jointly and severally under the contract and the withdrawal or any member of the consortium before or during the implementation of the project may be a ground for review or possible cancellation of the contract or partnership.

Charge of User Fees

23. (1) The Governing Council shall subject to the approval of the State Executive Council authorize certain partners or concessioners to charge and collect on behalf of the State Government, user fees from members of the public.

(2) The user fees charged and collected in subsection (1) above shall not be increased by partners or concessioners except as directed by the Governing Council upon the approval of the State Executive Council.

(3) The user fees charged and collected under this Section shall be paid into the appropriate account as contained in the Law establishing such Ministry, Department, Agencies, Corporation, Local Government Council or body immediately after collection without delay.

Circumstances where competitive bidding for Contracts may not be necessary

24. Notwithstanding section 23 of this Law, and after advertisement in accordance with section 22 (1) of this Law:

(a) only one contractor, interested party applied or submits a bid or proposal; or

(b) only one contractor, interest meets the prequalification requirements, the Ministry, Department, Agency, Corporation, Local Government Council of other body may undertake direct negotiation without competitive bidding for any contract to be entered into pursuant to section 21 of this Law.

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| Unsolicited proposals | 25. The Agency shall have the right to reject or consider unsolicited proposals or call for expression of interest from the public on project(s) in unsolicited proposal(s), sub-mitted by a prospective investor, and provided such prospective investor, where such proposal is viewed to be in the interest of The State and provided such prospective investor is given the opportunity to partake in the expression of interest. |
| Duration of concession | 26. The duration of any concession of partnership shall be as may be specified in the agreement or contract governing the concession or partnership benchmarked against international and national standards and best practice. |
| Power to inspect and supervise Projects under Concession | <p>27. (1) The Agency and The State Government's Ministry, Agency, Corporation, Local Government Council or body shall have the power at any reasonable hour or operation hours to enter upon and inspect any land or asset comprised in any partnership, concession granted or contract executed pursuant to this Law for the construction or erection of any infrastructure or socio-economic development project and it shall be the duty or the project promoter, the contractor or anyone acting on its behalf to permit and give free access to enter and inspect.</p> <p>(2) The Agency in conjunction with the Office of the Auditor General of The State have the right at any time during the award or the execution of any project to demand for and examine the books of account and financial statement of the private partner to ascertain the private partner's financial capability and to ensure non diversion of project funds.</p> |
| Arbitrary variation of Agreement | 28. No agreement reached in respect of this Law shall be arbitrarily suspended, stopped, cancelled or changed except in accordance with the provisions of this Law. |

Responsibilities of Contracting Party 29. Subject to the provisions of this Law, the relevant State Government Ministry, Department, Agency, Corporation, Local Government Council or body shall act as the contracting party on behalf of the State Government and carry out its obligations to inspect and supervise the performance of the contractors in accordance with the agreement.

Right of way 30. Every contractor or investor to whom any concession has been granted under this Law shall have a right of, way or easement in respect of any land or property near to or bordering the project site or facility as may be reasonably necessary for the proper implementation of the project under this Law.

PART VII - LEGAL PROCEEDINGS

Limitation of suit against the Agency 31. Subject to the provisions of this Law, the provisions of the Public Officers Protection Law of Nigeria shall apply in relation to any suit instituted against any member or officer of employee of the Agency.

Service of documents 32. A notice, summons or other document required or authorized to be served on the Agency under the provisions of this Law or any other Law or enactment maybe served by delivering it to the Director General or by sending it by registered post addressed to the Director General at the principal office of the Agency.

Indemnity of members of the Governing Council and staff of the 33. A member of the Governing Council, the Director General or any officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding, whether civil or criminal, if the proceeding is brought against him in his capacity as a member, Director General, officer of other employee of the Agency.

PART VIII - MISCELLANEOUS PROVISIONS

- Directives of the Governor
34. The Executive Governor may give to the Agency such directives of a general nature or relating generally to matters of policy with regards to the exercise of it or his functions under this Law as he may consider necessary and it shall be the duty of the Agency to comply with the directives or cause them to be complied with.
- Power to make regulations
35. (1) The Agency may, with the approval of the Governor make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Law and for the due administration of its provisions.
- (2) Without prejudice to the generality of Sub-section (1) of this Section, the Governing Council may issue guidelines to give full effect to the provisions of this Law.
- Confidentiality
36. (1) A member of the Governing Council, the Director General or any other officer or employee shall:
- (a) not, for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Governing Council or as the Director General, officer or employee of the Agency;
 - (b) treat as confidential, any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duties under this Law; and

- (c) not disclose any information referred to under paragraph (b) of this Subsection, except as required by Law.

(2) Any person who contravenes the provisions of Subsection (1) of this Section commits an offence and shall on conviction be liable to a fine of not less than ~~N~~30,000 or imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

Environmental and
Social Impact
Assessment
provisions

37. (1) A contractor engaged under this Law shall where applicable and at its own expense, prepare an Environmental and Social Impact Assessment (ESIA) and Climate Screening Feasibility Study and Report which shall:

- (a) comply with the requirements of the Applicable Laws regulating environmental management and Social Impact Assessment;
- (b) establish a baseline of environmental conditions, climate parameters, social and labour conditions, including of gender inequalities, prevailing at the time of assessment;
- (c) identify all potential negative and positive environmental and social impacts of a Project, and suggest how negative impacts can be avoided or mitigated ;
- (d) assess the Project-related environmental and social impact on the local community where a Project is executed; and
- (e) provide guidance as to how negative environmental impacts can be avoided or

mitigated, and how positive impacts can be achieved or enhanced.

(2) A Contractor shall prepare method statements indicating the period within which the status on site shall be maintained to ensure that significant adverse impact arising from such works have been appropriately addressed.

(3) The Contractor shall adhere to the proposed activity implementation schedule and the monitoring plan or strategy to ensure effective feedback of monitoring information to project management so that impact management can be implemented properly, and if necessary, adapt to changing and unforeseen circumstances.

(4) The Contractor shall implement all measures necessary to avoid undesirable adverse environmental and social impacts wherever possible, restore Project sites to acceptable standards, and abide by any environmental performance requirement.

Repeal

37. The Niger State Public Private Partnership Agency Law, 2011 is hereby repealed.

SCHEDULE

PROCEEDINGS OF THE GOVERNING COUNCIL

1. Subject to this Law and Section 2 of the Interpretation Law, the Governing Council shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meeting, and those of the its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Agency may, from time to time, determine.

2. (i) There shall be at least four ordinary meetings of the Governing Council in every calendar year and subject thereto, the Governing Council shall meet whenever it is covered by the Chairman, and if the Chairman is requested to do so by notice given to him not less than 3 other members, he shall convene a meeting of the Governing Council to be held within 14 days from the date on which the notice was given.

(ii) Every meeting of the Governing Council shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the Vice-Chairman shall preside at the meeting.

3. The quorum of any meeting of the Governing Council shall consist of two third of the total members.

4. The Governing Council shall meet for the conduct of its business at such places and on such days as the Chairman may direct.

5. A question put before the Governing Council at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.
6. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.
7. Where the Governing Council seeks the advice of any person on a particular matter, the Governing Council may invite that person to attend for such periods as it thinks fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Governing Council and shall not count towards the quorum.
8. The Governing Council may appoint Sectoral and Technical Committees to carry out on behalf of the Governing Council such of its functions as the Governing Council may determine and report on any matter with which the Governing Council is concerned.
9. A Committee appointed under paragraph 8 of this Schedule shall be presided over by a member of the Governing Council and consist of such number of persons (not necessarily all members of the Governing Council) as may be determined by the Governing Council, and a person other than a member of the Governing Council shall hold office on the Committee in accordance with the terms of his appointment.
10. A decision of any of the Sectoral Committee and the Technical Committee of the Governing Council shall be of no effect until it is confirmed by the Governing Council.

MISCELANEOUS

11. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman and the Director General or the Director General and such other person authorized by the Governing Council to act for that purpose.
12. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the Chairman or the Director General or by any person generally or specifically authorized to act for that purpose by the Governing Council.
13. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Agency shall be received in evidence and, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.
14. The validity of any proceedings of the Governing Council or its Committees shall not be affected by:
 - (a) any vacancy in the membership of the Governing Council or its Committee; or
 - (b) reason that a person not entitled to do so took part in the proceedings; or
 - (c) Any defect in the appointment of a member.
15. Any member of the Governing Council or Committee thereof who has a personal interest in any contract or arrangement

entered into or proposed to be considered by the Governing Council or any committee thereof:-

- (a) shall forthwith disclose his interest to the Governing Council or Committee; and
- (b) shall not vote on any question relating to the contract or arrangement.

FIRST SCHEDULE

I assented this.....²⁹ day of ^{Dec}.....2023 Time.....^{4:29pm}.....


Hon. Mohammed Umar Bago
Governor of Niger State


SECOND SCHEDULE

I withheld assent this..... day of.....2023 Time.....

Hon. Mohammed Umar Bago
Governor of Niger State

THIRD SCHEDULE

I, **Abdullahi M. Kagara**, Clerk to the Legislature of Niger State hereby certify that this Law has been passed in accordance with Sub-Section 3 of Section 100 of the Constitution of the Federal Republic of Nigeria 1999. This printed impression has been carefully compared by me with the Bill, which has been passed by the Legislature and found by me to be a true and correctly printed copy of the said Bill.


ABDULLAHI M. KAGARA
Clerk to the Legislature

