



OFFICE OF THE GOVERNOR
CABINET DEPARTMENT
IBADAN, OYO STATE OF NIGERIA

Your Ref, No.....

All communication should be addressed to the
Secretary to the State Government quoting

Our Ref. No. S.12/14/34

The Director-General,
Oyo State Investment and Public
Private partnership Agency,
Secretariat,
Ibadan.



13th November, 2019

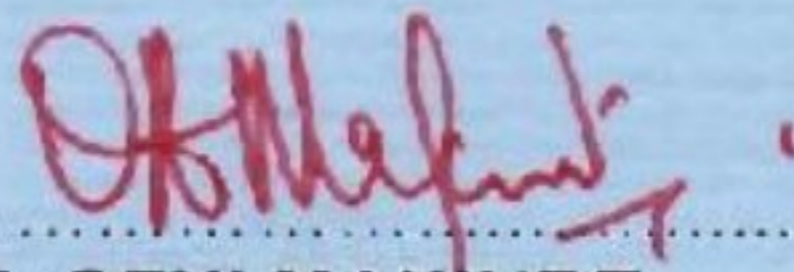
**RE - A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE
OYO STATE INVESTMENT AND PUBLIC PRIVATE PARTNERSHIP
AGENCY AND FOR OTHER MATTERS CONNECTED THEREWITH**

I have instructions to forward one (1) copy of "a law to provide for the establishment of the Oyo State Investment and Public Private Partnership Agency and for other matters connected therewith" endorsed by Governor Seyi Makinde on 12th November, 2019 to the Office of Your Honour for further necessary actions at your end.

2. I thank Your Honour.

Olubunmi Oni (Mrs.)
Permanent Secretary (Cabinet and Special Services)
for: Secretary to the State Government.

Assented to by me this 12th day November 2019


ENGR. SEYI MAKINDE
His Excellency, The Executive Governor



OYO STATE OF NIGERIA

No.15

A LAW TO PROVIDE FOR THE ESTABLISHMENT OF THE OYO STATE INVESTMENT AND PUBLIC PRIVATE PARTNERSHIP AGENCY AND FOR OTHER MATTERS CONNECTED THEREWITH

Date of
Commencement.

()

Enactment

ENACTED by the House of Assembly of Oyo State of Nigeria as follows:

Short Title.

1. This Law is cited as the Oyo State Investment and Public Private Partnership Agency Law, 2019.

Interpretation.

2. In this Law –
"Agency" means the Oyo State Investment and Public Private Partnership Agency established under section 3 of this Law;
"Auditor-General" means the Auditor-General of the State;

"Board" means the Governing Board of the Agency established under section 8 of this Law;

"Chairman" means Chairman of the Board of the Agency;

"Committee" means the Committee established by the Board;

"Concession" means a contractual arrangement whereby the project component or concessionaire undertakes the construction, including financing of any infrastructure, facility and the operation and maintenance thereof and includes the supply of any equipment and machinery for any infrastructure;

"Concession Agreement" means any agreement between the government and any person, firm, company or limited liability partnership for the construction, maintenance, operation or management of public infrastructure, assets, and facilities over an agreed period of time, including but not limited to the following types of arrangement -

- (i) Design, Build, Operate and Transfer;
- (ii) Build, Own, Operate and Transfer;
- (iii) Build, lease and transfer;
- (iv) Rehabilitate, Operate and Transfer;
- (v) Joint Development Agreement; and
- (vi) Operation and Maintenance

"Concessionaire" means any person or body corporate who may or may not be a project proponent, who enters into a contract or have been granted a concession by any Oyo State Government Ministry, Agency, Corporation or body and undertakes to construct any infrastructure or facility or supply any equipment for any infrastructure or facility under this Law, and the provision of any services.

"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;

"Enterprise" means any industry, project, undertaking or business to which this Law applies or an expansion of such industry, undertaking, project or business;

"Financial Instruments" means monetary contracts between parties which may be evidence of ownership in stock and shares, bonds, futures, bill of exchanges;

"Function" includes powers and duties;

"Government" means the Government of the State;

"Governor" means the Governor of the State;

"House of Assembly" means the House of Assembly of the State;

"Infrastructure" includes development projects which before the commencement of this Law, were financed, constructed, operated or maintained by the 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 power plants, highways, canals, dams, hydroelectric power projects, water supply, irrigation, intrastate transport systems, land reclamation projects, environmental remediation and clean-up projects, industrial estates or township development, housing, Government buildings, tourism development projects, trade fair complexes, warehouse, solid waste management, satellite and ground receiving stations, information technology, networks and database infrastructure, education and health facilities, sewage, drainage, dredging and other infrastructure and development projects as may be approved from time to time by the Government;

"Investment" means investment made to acquire an interest in an enterprise operating within and outside the economy of Nigeria;

"Member" means a member of the Board of the Agency, including the Chairman;

"Ministry" means the Ministry of Investment, Trade, Cooperatives and Industries;

"Person" means an individual and includes a limited liability company, a limited liability partnership or any organisation duly registered under the Companies and Allied Matters Act;

"Products" mean project finance and investment products and services being offered by the Agency;

"Project Operator" means State owned and privately-owned enterprises and other forms of business;

"Project agreement" means an agreement between the State and a private sector partner to carry out a public private partnership project, including concessions, lease, management contract, other forms of agreements, technical assistance contract, franchises and regulatory agreement;

"Partner" includes privately-owned business, Public Corporation, a consortium of business, national and international development finance institutions, multinational and financial institution with a specific area of expertise and services;

"Portfolio of quoted investment" means an investment in shares or other securities quoted and tradable on the Nigerian Stock Exchange;

"Public assets" include the right of uses of any property or economic opportunity of a public nature, arising from the use of public property;

"Public infrastructure" includes public facilities and amenities, including roads, bridges, highways, water transportation facilities, public water works, housing electrical power stations, hospitals, public toilets, recreational parks, motor parks, school buildings, waste disposal facilities, agricultural facilities, amusement centres and other infrastructure or amenities for public use;

"Public Private Partnership" means a funding model for a public infrastructure projects such as agricultural infrastructure, healthcare facilities, water supply (treatment and distribution systems), housing, solid waste management, roads and bridges, urban transport systems, inland container depots and logistic hubs, power, mining, gas and petroleum infrastructure;

"State" means Oyo State of Nigeria.

"Transaction" means financial transaction, agreement and communication between the Agency and dealing parties;

"Unquoted investment" means equity holding interest in private companies, joint ventures and

Special Purpose Vehicles (SPV) floated to drive Public Private Partnership which are not listed on the Nigerian Stock Exchange.

Establishment of
the Oyo State

Investment and Public
Private Partnership Agency.

3. (1) There is hereby established the Oyo State Investment and Public Private Partnership Agency (referred to in this Law as the "Agency").

(2) The Agency shall be a body corporate with perpetual succession, a common seal and may be sue or be sued in its corporate name.

(3) The Agency shall be directly responsible to the Governor.

Purpose of
the Agency.

4. The purpose of the Agency is to initiate, promote, facilitate and co-ordinate investments in the State through –

- (a) Greenfield and existing Public Private Partnerships; or
- (b) Privatization and Commercialization of State owned assets; or
- (c) Infrastructure concession of State assets; or
- (d) Strategic Investment of the State funds in Financial Instruments; or
- (e) Strategic Asset management which would transform the economy of the State.

Functions of
the Agency.

5. The functions of the Agency shall include to –

- (a) encourage, promote, coordinate, monitor and manage all investments in the State, for the delivery of economic and financial benefits and returns;
- (b) offer promotions, project development, risk and guarantee, funds related project finance investment products and services;

- (c) advise and conduct a risk and benefit assessment that will assist the Government on the implementation of all projects and programmes in relation to State inward investment strategy;
- (d) advise and assist the government in creating an attractive and competitive climate for business that will lead to robust economic activities in the State;
- (e) source on behalf of the Government and private enterprises entity, finance for investment from multilateral and bilateral development and financial institutions, partners as well as private investors (both domestic and foreign) through Public Private Partnership (PPP) and other financial arrangements;
- (f) act as lead negotiator in deals with private investors that ensure the needs of the State represented;
- (g) assist the State in investing funds in Financial instruments to ensure diversification of the income stream of the State;
- (h) monitor Government's Portfolio of quoted and unquoted investments;
- (i) monitor the implementation, execution and delivery of projects as contained in agreements between the Government and respective investors;
- (j) monitor and manage the transactions, implementation, execution and delivery of projects as contained in agreements

Between the Government, respective investors, contractors and project operators;

- (k) assist the State in building capacity for investment, project identification, evaluation, planning, execution and management;
- (l) advise and assist in the establishment of a framework for monitoring and evaluating the State's progress in strategic economic investment programmes and projects for effective implementation;
- (m) establish a framework for identifying and synergizing the activities of relevant Ministries, Departments and Agencies of both the Federal and State Government in the investment drive of the State;
- (n) articulate clear growth and development strategies for providing needed support and appropriate incentives to grow the local private sector and enlarge the economic base of the State in line with the priorities of the State;
- (o) maintain a comprehensive and reliable database on investment opportunities for effective planning especially in areas where the State has demonstrable comparative and competitive advantages;
- (p) publish and periodically revise data and information on the investment status of the State to assist prospective investors (both domestic and foreign) to evaluate the State's potential as an investment destination;

- (q) develop a database of reputable prospective and potential investors within and outside Nigeria;
- (r) initiate, organise and participate in local and international promotional activities such as investments summits, exhibitions, conferences and seminars for the stimulation of investment in the State;
- (s) focus on strategic identification and documentation of available land for agricultural, housing, mining, industries for speedy availability to qualified investors in a manner that protects the rights of all stakeholders (land owners, occupiers, communities) and provides opportunities for optimal land use in investment and job creation;
- (t) be a one-stop resource and coordination Centre for all investment related activities in the State;
- (u) ensure that the adoption of Public Private Partnership for the provision, development and enhancement of public infrastructure and assets in the State is in accordance with prevailing Government policy and public interest;
- (v) propose and advice Government on policies to facilitate the ease of doing business in the State; and
- (w) perform such other functions as the Governor may from time to time direct or as may be deemed necessary to achieve its primary purpose under this Law.

Powers of
the Agency.

6. In carrying out its functions under this Law, the Agency shall have the power to –
- (a) acquire, hold, dispose of movable and immovable properties for the purpose of carrying out its functions under this Law;
 - (b) acquire all required operating licences, approvals, registrations, clearance and exemptions for the purpose of carrying out its functions under this Law;
 - (c) insure its property against all forms of risk;
 - (d) enter into contract and incur obligations;
 - (e) negotiate with and grant concessions to private partnerships for the design, construction, operation, management, control, maintenance, rehabilitation and financing of public infrastructure and assets in accordance with the Oyo State Public Procurement Law;
 - (f) invest funds in Financial Instrument, subject to the approval of the Governor;
 - (g) engage, from time to time, the services of consultants, adviser and other service providers where the Agency lacks employee with the technical competence; and
 - (h) exercise any other powers that are incidental and necessary for the execution and realization of its functions under this Law.

Transfer of responsibilities,
Liabilities rights, assets.

7.(1)The responsibilities being currently discharged by the Oyo State Bureau of Investment Promotion and Public Private Partnership and Oyo State Investment and Finance Company are hereby transferred to the Agency.

(2) The rights, liabilities, properties and assets belonging to the Oyo State Bureau of Investment Promotion and Public Private Partnership are hereby transferred to the Agency.

Establishment of the
Oyo State Investment
and Public Private
Partnership.

8. (1) There is hereby established for the Agency the Oyo State Investment and Public Private Partnership Board (referred to in this Law as the "Board") which shall be responsible for the discharge of the functions of the Agency.

- (2) the Board shall consist of –
- (a) the Director-General of the Agency who shall be the Chairman;
 - (b) the Commissioner of Finance or his representative;
 - (c) the Commissioner for Investment, Trade, Cooperatives and Industries or his representative;
 - (d) the Commissioner for Lands, Housing, and Urban Development or his representative;
 - (e) the Commissioner for Public Works and Transport or his representative;
 - (f) the Commissioner for Budget and Economic Planning or his representative;
 - (g) a representative of Oyo State Board of Internal Revenue;
 - (h) the Accountant-General or his representative;

- (i) the Attorney-General and Commissioner for Justice or his representative;
- (j) the President of the Oyo State Chamber of Commerce, Industry, Mines and Agriculture;
- (k) 2 persons, who shall be appointed from the private sector by the Governor with sound knowledge of the Nigerian business and investment environment; and
- (l) the Secretary of the Agency who shall be the Secretary of the Board.

Functions of
the Board.

9. The functions of the Board shall be to -
- (a) promote policies and transparent procedures that enable the Government to work with potential investors and business partners to develop the natural resource and assets of the State;
 - (b) carry out capital and risk planning and management oversight;
 - (c) develop appropriate institutional and regulatory framework for investment and facilitation in the State;
 - (d) articulate clear growth strategies for providing needed support and appropriate incentives to grow the local private sector and enlarge the economic base of the State in line with the priorities of the State;
 - (e) develop and implement a comprehensive strategy and action plan to attract and facilitate new investments in the State; and

- (f) foster sustainable economic growth and create job opportunities for the residents of the State.

Tenure of the Board.

10. (1) A member of the Board shall hold office for a term of 4 years and may be reappointed for another term of 4 years only.

Remuneration.

- (2) Members of the Board shall be paid such remunerations and allowances as may be approved by the Governor.

Cessation of Membership.

11. The office of a member of the Board shall become vacant when –

- (a) the term of appointment has expired;
- (b) a one-month notice of resignation in writing has been given to the Governor;
- (c) the Governor revokes the appointment of a member where he is satisfied that such a member -
 - (i) is incapacitated or unable to discharge his duties diligently by reason of mental or bodily infirmity; or
 - (ii) has been adjudged bankrupt; or
 - (iii) has become unfit for membership of the Board by reason of conviction for a criminal offence or abstention from 3 consecutive meetings without the leave of the Board.

Proceedings of
the Board.

12. (1) The Board shall meet at least once every Quarter, to review the progress of the various programmes and projects on the roadmap and to consider any special issues as may be directed by the Governor.
- (2) Where the Chairman is unable to attend any Board Meeting, the members present may appoint one of their number to preside over that meeting.
- (3) At every Board meeting, 8 members shall form a quorum.
- (4) In the event of a stalemate on any vote relating to any matter, the chairman of the meeting shall have a casting vote.
- (5) Where any member has any direct or indirect interest on any matter before the Board, the member shall declare his interest to the Board, following which the member shall be excused from participating in discussions or voting on the particular matter under consideration.
- (6) Members of the Board except the Director General shall serve on part-time basis.

Director-General
of the Agency.

13. There shall be a Director-General for the Agency who shall -
- (a) be appointed by the Governor subject to the confirmation of the House of Assembly;
 - (b) be the Chief Executive Officer and Chief Accounting Officer of the Agency;
 - (c) be responsible for the execution of the policy and the day to day administration of the Agency;
 - (d) be answerable to and responsible to the Governor in the discharge of his functions;

- (e) upon invitation, attend meetings of the State Executive Council at which investment and Public Private Partnership issues or activities of the Agency are to be discussed;
- (f) prepare a three-year rolling strategy and a 12month action plan and budget based on the functions of the Agency for review and approval by the Board;
- (g) monitor the progress of the strategy and prepare quarterly reports for the review of the Board;
- (h) liaise with all Ministries, Departments and Agencies of Government for the purpose of continually collecting, compiling and collating information with a view to developing an economic database and investment information repository for the State;
- (i) provide information and technical input to the Board for the purpose of defining appropriate policy directions and high-level reform priorities;
- (m) develop a prioritised comprehensive reform strategy, which identifies roles and responsibilities for reform, time bound targeted action plans, outputs and supporting budgets for effective management and investment;
- (n) prepare policy and strategy papers on key investment issues as may be directed by the Governor;
- (o) carry out activities aimed at building the institutional capacities of Ministries,

Departments and Agencies of Government and other relevant stakeholders in the area of investment;

- (p) work with relevant government agencies to periodically review broad sector policies to ensure consistency with economic management and investment initiatives in the State;
- (q) coordinate the implementation of the various recommendations of the State Executive Council on investment issues;
- (r) provide support in the development of feasibility studies on investment projects in small and medium enterprise supported sectors;
- (s) coordinate all activities of the Agency including the execution of its Work Plan and Annual Budget and ensure the maintenance of accurate accounting records;
- (t) conveying decisions of the Board to all relevant parties;
- (u) arranging for the payment of allowances of the Board members and other related matters; and
- (v) undertake any other tasks relating to investment as may be directed by the Governor.

Secretary of
the Agency.

14. (1) The Governor shall appoint a Secretary for the Agency who shall -

- (a) be a serving civil servant not below the Grade Level of a Director, but with a minimum of 15 years' cognate experience in the relevant field;
- (b) keep records of the Agency;

- (c) arrange meetings of the Board and its constituted committees;
- (d) prepare agenda as directed by the Director General, and the minutes of Board meetings;
- (e) cover the proceedings of the meetings of the Board; and
- (f) be responsible to the Director-General in the execution of his general duties.

Legal Adviser.

(2) The Board shall appoint a Legal Adviser who shall be a Legal Practitioner with at least 10 years' post-call and cognate experience in administrative, investment and corporate governance.

(3) The Legal Adviser shall provide legal advice and counseling to the Director General.

Other staff
of the Agency.

15. (1) For the purpose of effective performance of its functions under this Law, there shall be deployed to the Agency by the appropriate authorities such officers with required skills, and competencies in the functions of the Agency of various Grade Levels and cadres within the State Civil Service.

(2) The officers of the Ministry shall be subject to the Civil Service Rules and Regulations on issues relating to benefit, entitlement, discipline, retirement and other matters affecting the Civil Servant in the State.

Departments
of the Agency.

16.(1) There is hereby created in the Agency the following Departments –

- (a) Public Private Partnership;
- (b) Investment Promotion;
- (c) Planning Strategy and Policy Coordination;
- (d) Administration and Supplies;
- (e) Finance and Accounts; and
- (f) Planning Research and Statistics.

(2) The organogram of the Agency shall be as contained in the schedule to this Law.

Fund of
the Agency.

17.(1) The Agency shall establish and maintain a fund which shall be applied towards the discharge of its functions under this Law.

(2) There shall be paid and credited into the fund established pursuant to subsection (1) of this section -

- (a) all subventions, grants and budgetary allocations from the State Government;
- (b) any fee charged for services rendered by the Agency;
- (c) gifts, loans, endowments, grants or aid from any agency, institution, bilateral and multilateral organisations or any government;
- (d) any rents, fees, proceeds, dividends, and entitlements from privatisation, commercialization, Public Private Partnership, Financial Instruments, and Infrastructure Concession; and
- (e) dividends from investments and other monies that may become payable or vested in the Agency in respect of any matter incidental to its functions.

Borrowing
Power etc.

(3) The Agency may, with the consent or authority of the Governor, borrow by way of loan or overdraft from any source approved by the Governor, such specified amount of money as may be required by the Board for meeting its obligations and discharging its functions under this Law.

(4) The Agency may subject to the provisions of this Law and the conditions of any trust created in respect of any property, invest all or any of its funds with the consent of the Governor.

Proceeds of
the fund.

18. The Agency shall from time to time apply the proceeds of the fund established to -

- (a) the cost of administration of the Agency;
- (b) the payment of the emoluments allowances and benefits of members of the Board and for reimbursing members of the Board or of any committee set up by the Board for such expenses as may be expressly authorised by the Board;
- (c) the payment of allowances, salaries, fees or other remuneration, gratuities and pensions, and other benefits payable to the staff and other employees of the Agency: Provided that no payment of any kind under this paragraph (without the express authority of the Board) shall be made to any person who is in receipt of emolument from the Government;
- (d) for the development and maintenance of any property vested in or owned by the Agency;
- (e) for maintaining general financial reserves and investments subject to general or specific directives from the Governor; and
- (f) other expenses incurred by the Agency in the discharge of its functions under this Law or any other enactment.

- Bank account.
19. The Agency shall keep and operate bank accounts for its funds with such reputable Bank as may be authorized by or allowed under the extant financial laws and regulations of the State.
- Annual estimate and account.
20. (1) The Agency shall keep accounts of its income and expenditure for each financial year.
- (2) The accounts shall be audited annually by external auditors appointed by the Agency from a list of approved auditors by the Auditor General of the State.
- (3) The Agency shall forward a report of the external audit to the office of the Auditor-General of the State not later than two weeks after the submission of report by the external auditor.
- (4) The Agency shall prepare and submit to the Ministry of Budget and Economic Planning an estimate of its income and expenditure in accordance with the call circular of the Ministry of Budget and Economic Planning.
- Directives by the Governor.
21. The Governor may give to the Agency directives of a general nature as are necessary to make the Agency comply with the general policies of the Government.
- Common Seal.
- 22.(1) The Agency shall, as soon as possible after its establishment, provide itself with a Common Seal-
- (2) The fixing of the Common Seal of the Agency shall be authenticated by the signature of the Director-General.
- (3) Any document purporting to be a document duly executed under the seal of the Agency shall be received in evidence and shall be deemed to be properly executed unless the contrary is proved.
- Investment Guarantees,
Transfer of Capital,
Profits and Dividends.
23. Subject to this section, a foreign investor or an enterprise to which this Law applies shall be guaranteed unconditional transferability of funds through an authorized dealer in freely convertible currency of –

- (a) dividends or profits (net of taxes) attributable to the investment;
- (b) payments in respect of loan servicing where a foreign loan has been obtained; and
- (c) the remittance of proceeds (net of all taxes) and other obligations in the event of a sale or liquidation of the enterprise or any interest attributable to the investment.

Guarantees against expropriation.

24.(1) Subject to subsections (2) and (3) of this section—

- (a) no enterprise shall be nationalized or expropriated at the instance of the Government; and
 - (b) no person who owns, whether wholly or in part, the capital of any enterprise shall be compelled by law to surrender his interest in the capital to any other person including the Government.
- (2) There shall be no acquisition of an enterprise to which this Law applies by the Government unless the acquisition is in the public interest or for a public purpose or under a law which makes provision for payment of fair and adequate compensation.
- (3) Any compensation payable under this section shall be paid without delay and authorization for its reparation in convertible currency shall, where applicable be issued.

Establishment of Special Purpose Vehicle Companies or Limited Liability.

25. The Agency, with the approval of the Governor, may cause to be formed a Limited Liability Company or Partnership or other organization for the purpose of financing public private partnership projects or facilitating such projects, where in the opinion of the Agency, it is necessary or expedient to do so in order to discharge its functions under this Law.

Pre-existing
Concession

26. The provisions of this Law shall apply to public private partnerships or concessions entered into before the commencement of this Law and shall preserve and protect all rights, properties, interests and obligations existing under that contract and any law applicable when the public private partnership was entered into or the concession awarded.

Public Private
Partnership Agreement.

27. Without prejudice to the functions of the State under any other enactment, the State either by itself or in conjunction with any other person (including another State), may-

(a) enter into an agreement with a person (referred to in this Law as a "partner" for the performance of the functions specified in the agreement;

(b) enter where appropriate into direct agreement with persons, who have arranged or provided funding for the partner for carrying out the Public Private Partnership in relation to –

(i) the design and construction of an asset together with operation of services relating to it and the provision of finance if required for such design, construction and operation;

(ii) the construction of an asset with the operation services relating to it and the provision of finance if required for construction and operations; and

(iii) the design, construction or operation of an asset, together with the provision of finance and operation.

State Ministry, Department
or Agency Guarantee.

28. A public private partnership agreement may contain provisions that a financial guarantee, indemnity, undertaking or letter of consent would be given by Ministry, Department or Agency of the Government provided that no such financial guarantee, indemnity, undertaking or letter of comfort in respect of any concession agreement made pursuant to this Law, shall be given except with the approval of the State Executive Council.

Designation of Public
Infrastructure and
Public assets.

29. Notwithstanding the provision of any law, the Agency with the approval of the Governor and in consultation with the Ministry, Department or Agency of the Government that has control over the particular asset may, designate any public infrastructure or public asset within the State as public infrastructure or public assets with respect to which user fee or toll shall be payable for the purpose of this Law.

User fees
and tolls.

30.(1)The Agency may by Regulation stipulate –

- (a) the service charges, user fees or tolls payable in respect of designated public infrastructure or public assets; and
 - (b) conditions under which members of the public may access the use of public infrastructure or public assets.
- (2) A Concessionaire shall propose for the approval of the Agency, the service charge, user fees or tolls, or any review of same in relation to the use of public infrastructure or public assets by reference to such circumstances or combination of circumstance or classification as the Agency may in consultation with the Concessionaire specify.
- (3) The Agency may provide service charge, user fees or tolls to be charged for a period specified or determined in accordance with the regulation, where the regulations provide for a period when payment of service charge, user fees or tolls shall end, it shall take effect –
- (a) on a date, or at the end of a period specified in the regulations; or
 - (b) on a date determined by reference to –
 - (i) the achievement of a specified financial objective; or
 - (ii) such other factors or combination of factors as may be specified in the regulations.
- (4). Where a concession agreement has been executed in accordance with this Law, the terms of the concession agreement shall be deemed to constitute a valid service charge, user fee or tolls regulations for the purposes of this section.
- (5) The service charge, user fee or toll which may be levied and collected by the Concessionaire, pursuant to any

- concession agreement shall in every case be the service charge, user fee or toll specified or calculated in accordance with the index or formula or other provision stated in the concession agreement as agreed with the Agency where the concession agreement is entered into prior to the regulations made by the Agency.
- (6) Each concession agreement shall set out the procedure, circumstances and formulae by which the service charge, user fee or toll to be charged shall be calculated, varied or adjusted.
 - (7) Where the concession agreement does not set out the provisions for calculation, adjustment or variation of the service charge, fee or toll or such provisions are declared invalid, void or unenforceable by any competent court or authority, the Concessionaire shall apply to the Agency for a calculation of or an adjustment or variation to the service charge, user fee or toll and the Agency shall provide the necessary guidelines for the assessment of the applicable service charge, user fee or toll, taking into account all relevant circumstances.
 - (8) The Agency shall have power to vary or adjust, or to require the adjustment of any service charge, user fee or toll charged by Concessionaire in respect of a public infrastructure or asset only in accordance with the provisions of this Law, or as may have been agreed and incorporated into any relevant concession agreement.
 - (9) The Agency shall ensure that the concessionaires or private sector partners for public private partnership projects shall be selected through a transparent, efficient and competitive procedure, adapted to the peculiarities of the different projects selected for the public private partnership arrangement.
 - (10) The Agency shall consult and collaborate with the Ministry, Department or Agency of the Government that has control over the particular infrastructure or asset to determine a risk allocation structure that is best suited to the project and best serves the interest of the public, the private sector, partner and the project.

Payment of Service charges, User fees or tolls to the Concessionaires.

31.(1) The service charge, user fees or tolls shall be paid to the concessionaires and adjusted in accordance with or the terms of agreement made by the parties or where such agreement is silent, by the regulations made by the Agency.

(2) A service charge, user fee or toll levied in respect of public infrastructure or public assets is valid only if it is levied in accordance with the provisions of this Law.

Authorization to collect user fees or tolls.

32.(1) Notwithstanding the provisions of any law, the Agency may in the relevant concession or project agreement authorize any person in return for undertaking such obligation as may be specified in a concession or project agreement with respect to the design, construction, maintenance, operation, improvement or financing of public infrastructure or public assets to enjoy specific rights as may be stated in the concession or project agreement including the right to levy, collect and retain service charges, user fees or tolls in respect of the user of the public infrastructure or public assets.

Offences and Penalties.

33.(1) Any person who fails or refuses to pay a service charge, user fee or toll in accordance with this Law or any regulations made under this Law or within the terms of the concession agreement is guilty of offence and liable on conviction to 6 months imprisonment or a fine of N100,000.00 or any non custodial sentence provided by law.

- (2) If it appears to a person employed to collect service charge, user fee or toll that a person has refused or failed to pay, the person so employed may-
- (a) refuse to permit the defaulter to use, or prevent him from using or continuing to use the public infrastructure or public asset with respect to which the service charge, user fee or toll are payable; and
 - (b) require him to vacate the public infrastructure or public asset or where necessary call for the assistance of law enforcement agencies.

Dispute settlement
Procedure

34. (1) Where a dispute arises between an investor and the Government in respect of an enterprise, all effort shall be made through mutual discussions to reach an amicable settlement.

(2) Any dispute between an investor and the Government in respect of enterprise to applies, which is not amicably settled through mutual discussions may be submitted at the option of the aggrieved party to arbitration as follows –

- (a) in accordance with the rules of procedure for arbitration as specified in the Arbitration and Conciliation Act, A18, Laws of the Federation of Nigeria or relevant dispute resolution rules agreed to by the parties; or
- (b) in the case of foreign sovereign investor, within the framework of any bilateral or multilateral agreement on investment protection to which Nigeria and sovereign investor are parties; or
- (c) in accordance with any other national or international machinery for the settlement of investment disputes agreed by the parties.

Jurisdiction

35. This Law shall have exclusive jurisdiction over issues relating to or connected with Investment and Public Private Partnerships in the State.

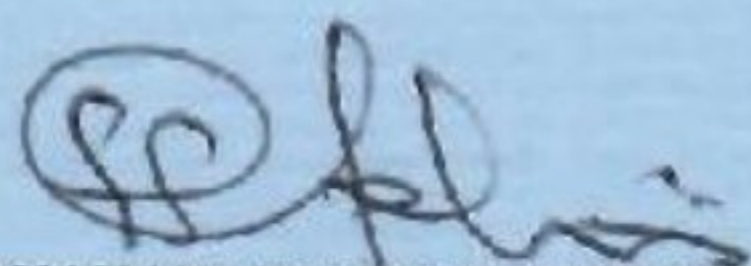
Regulation

36. The Director-General, with the approval of the Governor, shall have the power to make Regulations providing for any matter which appears to him to be necessary for the purpose of giving effect to the provisions of this Law.

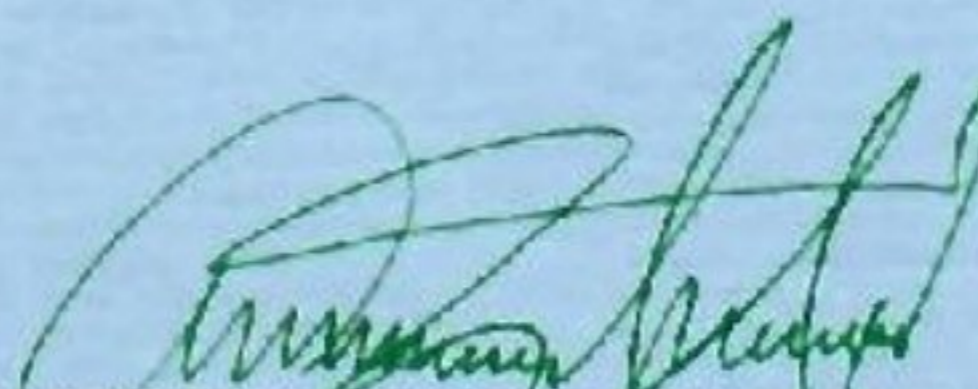
Repeal.

37. The Oyo State Bureau of Investment Promotion and Public Private Partnership Law, 2018 is hereby repealed.

This printed impression has been carefully compared with the Law which has been passed by the Oyo State House of Assembly and found by me to be a true and correct printed copy of the Law.



.....
Ms. Foluke Felicia Oyediran
Clerk of the State
House of Assembly



.....
Rt. Hon. Ogundoyin Adebo Edward
Speaker of the State
House of Assembly

THE SCHEDULE

(SECTION 16(2))

ORGANOGRAM OF THE OYO STATE INVESTMENT AND PUBLIC PRIVATE PARTNERSHIP AGENCY

